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Summer/Fall 1985

New England Journal of Public Policy

A Journal of the
John W. McCormack
Institute of Public Affairs

University of Massachusetts
at Boston

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University of Massachusetts at Boston

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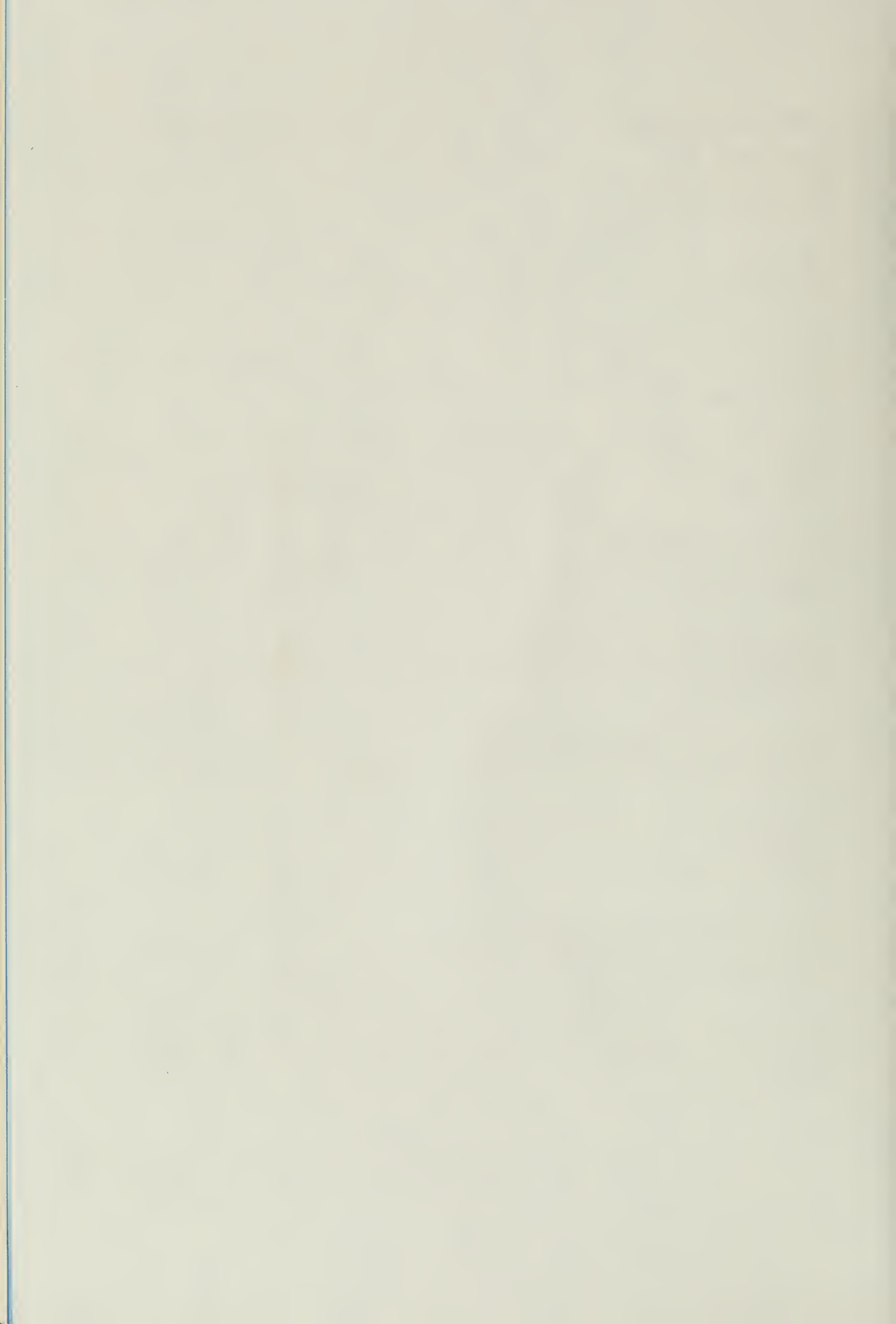
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Editor's Note

Padraig O'Malley

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CENTRAL TO THE EVOLUTION of public policy, since all subsequent processes flow from it, is the question of problem identification—or, more broadly, the question of definition. The importance of definition derives not only from the need to address the “right” problem but from the often greater need not to address the “wrong” one, since the subsequent misallocation of resources can alter the nature of the problem itself. More is not always better, whether in reference to federal largesse, nuclear power generating capacity, or the length of the school day. In fact, as the articles in this issue of the *New England Journal of Public Policy* demonstrate, more is often worse.

Bernard Gifford argues that the widespread inefficacy of educational reform can often be attributed to the failure of policymakers to “make the transition from macro- to microanalysis,” to move from a focus on “the larger obstacles impeding the schools’ capacity to serve all of their pupils effectively and efficiently” to a focus on “the specific problems that require the application of specific policy initiatives for their solutions”—in short, the failure to define precisely what is to be “solved.” He contends that this failure is often due to the tendency to substitute the *description* of unacceptable conditions in a policy area for a specific *definition* of the problem to which a new policy initiative is to be applied.

Gifford’s argument is reiterated in the Ferbers’ analysis of the fiscal condition of New England cities (the explosion of federal grant programs in the sixties in the absence of a national urban policy, they conclude, created conditions that subsequently undermined rather than ameliorated the cities’ capacity to stand on their own fiscal feet) and in Charles Komanoff’s analysis of the cost crisis in the nuclear power industry (the failure, he argues, perhaps even the intentional unwillingness, of the industry to identify the real reasons for skyrocketing nuclear plants costs—the safety controversy and technical deficiencies—led utilities to increase their investment in nuclear power facilities when, in fact, such investment should have been curbed). Even George Higgins takes benevolent umbrage at Donald Hall’s reference to him in the journal’s first issue as one of the *Globe*’s resident Hibernians.

A problem, of course, must be defined in terms of the constraints that give it context. Formulating a public policy agenda for the future requires an understanding of how social, economic, political, and organizational variables interact in the present. Thus, in the case of New England cities, the Ferbers maintain that

in view of their present financial limitations, city governments must redefine their priorities in the administration of public services; Komanoff cogently makes the case that the nuclear power industry must abandon the practices it has hitherto employed to suggest that nuclear power is competitive with other energy-generating sources—especially the practice of expressing costs in terms that have accounting but not economic meaning; and Gifford concludes that a shared understanding of the teacher-student interaction is prerequisite to a restructuring of the teaching occupation.

Robert Morris takes the matter of definition one step further, arguing that attitudinal changes among individuals and structural changes in the economy require a redefinition of the context in which we view problems, particularly those problems that pertain to welfare and social services. One reason for this shift in attitudes is dissatisfaction across the political smorgasbord with the results of programs that have evolved over the last half-century: many problems for which long-term solutions were developed and which are now administered by entrenched bureaucracies were misdefined to begin with. Unless we identify the nature of the changes which pose basic decisions about the kind of society we envision for ourselves, we will increasingly view public policy issues in wrong or inadequate contexts and hence misdefine the problems themselves.

4 Four of the articles—those written by the Ferbers, Robert Morris, Bernard Gifford, and Robert Peterkin—were first presented at the conference on “The Urban Condition in the Year 2000,” held at the University of Massachusetts at Boston this past June. The conference was cosponsored by the John W. McCormack Institute of Public Affairs and the National Association of State Universities and Land Grant Colleges. Richard Hogarty’s review of recent books on the future of cities complements these articles—in New England we sometimes forget that three-quarters of our population—the same fraction as in the U.S. population as a whole—lives within the urban environment, or Standard Metropolitan Statistical Areas.

Marcy Murningham’s analysis of what occurred when a state and federal court attempted to disengage from active jurisdiction over two Boston public systems illustrates at the micro-level what other articles illustrate at the macro-level, namely, when institutions or governmental units become dependent on other institutions or governmental units—often as the result of well-intentioned policy initiatives—their capacity to discharge their functions on behalf of the public interests they serve may be severely undermined. George V. Higgins contributes to the series on the New England state of mind, identifying “a New England code of acceptable behavior” whose hallmarks are discretion “and a sense of decency, still powerful enough to prompt even those flouting it, and getting caught, to feel a sense of guilt.” Future issues will continue to explore whether there is, in fact, such a thing as a New England “value system” that reflects itself in a special set of attitudes and perspectives and that speaks with a distinct voice, whether in literature or public affairs or town meetings, making New England different from the rest of the country.

Fiscal Paternalism and New England Cities:

A Policy for the Year 2000

Mark S. Ferber and Elizabeth A. Ferber

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The following commentary explores the future of urban public finance by focusing on the fiscal ills of New England's major cities. The impact of general revenue sharing, categorical grants, federal tax policy, state aid, and own-source city revenues is assessed in light of a city's ability to support itself. The authors conclude that a pattern of "fiscal paternalism"—the past and present policies for annual financial assistance to narrow the expenditure-revenue budget gap—must be altered if cities are to enter the twenty-first century as fiscally stable governments capable of providing the necessary services for a varied constituency.

IN 1969, AS A CANDIDATE FOR MAYOR of New York City, writer Norman Mailer suggested that the most likely method of resolving the City's well-publicized fiscal problems would be for it to secede from New York State and apply for independent statehood status. Mailer reasoned that secession would increase the direct flow of federal dollars to the City, would eliminate the costs of compliance with state regulations and the implementation of state-mandated programs, would permit the City to retain 100 percent of the revenues generated within its borders, and would preclude the potential for suburban legislators, unsympathetic to the City's needs, to exercise their political power at the expense of the City. On its face, the proposal seemed somewhat absurd. Yet, twenty years later, it appears that a number of New England's largest cities might contemplate the same course of action to obtain the same benefits.

The vision that Mailer's proposal sought to address in 1969 was one of urban fiscal independence. The prospect of statehood for New York City represented then what a policy aimed at fiscal independence for New England's cities would represent now—an end to fiscal paternalism on the part of federal and state governments toward urban centers.

Fiscal paternalism can be defined as an unhealthy dependence by urban centers on state and federal financial policies and programs for the purpose of ensuring

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those cities' financial stability. Eliminate state and federal assistance, and New England's major cities would be burdened by budget deficits that would force a wholesale redefinition of city government in order for debts to be paid. *Reduce* state and federal assistance, as some legislators now contemplate, without an attendant financial plan for the now-dependent cities, and programmatic chaos should not be unexpected. Like a child who is learning to be independent after being taught to manage money by application of a parent-supplied weekly allowance, cities dependent on state and federal allowances must be allotted a period of transition in order to adjust to the prospects of a future without the nest of funds that policies of fiscal paternalism have provided.

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It is important to understand that this problem did not appear overnight but rather evolved over two decades to its present point. During the late sixties and early seventies, cities were the primary beneficiaries of the "Age of Entitlement"—so named because of the federal policy whereby grants-in-aid were heaped on almost any jurisdiction regardless of whether they were necessary. All that was really necessary was a properly filed grant application. In retrospect, however, the price of these grants was actually quite high, for cities' acceptance of such monies opened the door to federal interference in local policy planning.

Today, in view of its own soaring deficit, the federal government has proclaimed an Age of Fiscal Enlightenment. The federal financial commitment to cities has been dramatically reduced, and cities face mounting financial pressures. The process of directing national urban policy away from extravagant provision for nonessential programs and toward seemingly random cuts in now-essential services has found cities relinquishing their reins of control over the breadth and depth of services to be provided. In terms of setting urban priorities, policy has followed the purse rather than the other way around.

Since the future we frequently define as the year 2000 is only fifteen years away, it behooves us to consider steps that can be taken by our cities to improve their prospects for financial independence in the years ahead. Such a review should begin with a glance at the policies that delineated the parameters of what we now call fiscal paternalism.

An Overview

From 1960 to 1968, the number of federal grant programs exploded from 45 to 435, without a concomitant explosion of social satisfaction resulting from the expenditures.¹ America had recognized that it was an urban nation with a need to support the development of its cities. Yet no national urban policy existed. A paternalistic federal funding policy, referred to as the Great Society, attempted to solve all ills by throwing money at them. The federal government provided a range of programs that permitted it to intrude on the management of cities and to define, in part, the quality of life which cities could afford their residents. Local officials welcomed an array of programs for the elderly, the disadvantaged, and the unemployed in large measure because the programs generated political support from local constituencies without asking local taxpayers to pay the bill directly.

Federal aid accounted for 30 percent of general revenues for cities in the late fifties; by fiscal 1971 federal aid was responsible for 37 percent of local budgets.²

Still, one of the most important sources of federal assistance did not appear until 1972. In that year, the general revenue sharing plan, discussed in more detail later, was introduced. Unlike the categorical grant programs that preceded it, general revenue sharing was intended to help counteract the expenditure-revenue imbalance that cities were experiencing by providing unrestricted cash support for city programs.³

Unrestricted federal grants to cities totaled \$4.6 billion in 1972. In 1985, the White House determined that it could shave \$23.8 billion off the federal deficit between 1986 and 1990 by eliminating the general revenue sharing program altogether.⁴ Although the federal government apparently found it acceptable to recommend elimination of the program, mayors and city dwellers alike found it unusually difficult to accept the cuts because more than ever, general revenue sharing funds were being used to support essential city services. The federal effort of 1972, far from reducing the expenditure-revenue imbalance, had created an even greater imbalance, masked only by the annual infusion of these dollars.

Policies of fiscal paternalism advanced unabated throughout the sixties and seventies. The relationship between the federal government and American cities became increasingly dependent and structured, providing the former with the opportunity to dictate both the breadth and depth of municipal services. This intervention was paternalism at its worst: a veritable intrusion into every City Hall that either willingly received or was politically pressured into accepting a portion of the federal largesse. Now, in 1985, cities are witnessing the federal government's withdrawal of municipal financial assistance, and they are being left without an independent means of raising revenues to replace the lost dollars.

The rhetoric of the seventies focused congressional attention on the need to develop a national urban policy. It appears now that the most prominent benefits we have to show for those policy efforts are downtown revitalization projects and their most frequent patrons, center-city Yuppies. After two decades of undirected urban programs, the future of our cities remains in peril: not from conflicts within urban centers themselves but from the insidious, undermining effects of fiscal paternalism. During the twenty-odd years in which there was a steady flow of revenues from the federal government, city officials were led to believe that such funds would be forever forthcoming; today, they are learning that nothing—not even fiscal paternalism—is forever.

The more money urban America accepted from the federal government, the more federal urbanologists believed their programs were succeeding. But federal money was only camouflaging some urban ills while it was actually creating others. None of the federal funds were used to assist cities in planning for a future independent of federal assistance; instead, federal programs were becoming an integral part of the new menu of urban services, complete with their own vociferous, dependent constituencies.

In the late 1970s, as federal programs lapsed, state governments were asked to cover the shortfall lest the momentum of municipal revitalization be stifled. Fiscal dependence was transferred from federal funds alone to a mix of federal and state monies. There were now two fiscal parents for cities to look to for guidance and to depend on for funds.

General Revenue Sharing

By and large, what revenue sharing tends to do is give a lesser amount of money in a more politically palatable form.

— Paul N. Ylvisaker, Professor of Education
Former Dean, Harvard Graduate School
of Education

8 New England's largest cities suffer from many of the problems experienced by senior citizens who are on fixed incomes and who are dependent on the federal government for their Social Security checks. These citizens recognize that the nation has a bulging deficit, but they vigorously fight Social Security benefit cutbacks because they have grown to rely on their no-strings entitlement stipend. What was once a supplemental payment to enhance has now become basic income on which to survive.

The General Revenue Sharing program (GRS), enacted as part of the State and Local Fiscal Assistance Act of 1972, was heralded as a means of resolving the structural expenditure-revenue imbalance that had begun to plague many of the nation's older, poorer cities.⁵ Ironically, some "neoliberal" Democrats who remain staunch defenders of Social Security have sided with the Reagan Administration's policy of monetary cutbacks in our cities' Social Security system—that is, general revenue sharing. Proponents of the cuts argue that the impact on local fiscal conditions would be moderate,⁶ since general revenue sharing represents less than 2 percent of the total revenues of local governments, but this is not so for New England's older communities.

Boston, which found itself a scavenger for state aid in order to close a \$55 million revenue gap predicted for fiscal 1986, received \$18 to \$19.5 million annually in revenue sharing monies from 1982 to 1985.⁷ Burlington, Vermont, and Portland, Maine, depend on intergovernmental aid for more than 15 percent of their operating revenues. After direct state assistance, general revenue sharing represents the largest single component of these operating budget lifelines. Providence relies on intergovernmental assistance for more than 25 percent of its budget, while Hartford requires state and federal transfer payments to supply more than 30 percent of its annual budget.⁸

Older cities accepted the advent of general revenue sharing with guarded optimism. The optimism was fostered by the belief that revenue sharing funds would not be accompanied by the programmatic restrictions of categorical aid and block-grant monies. On the negative side, there was skepticism because revenue sharing represented a net reduction in dollars transferred to cities by the federal government. New England cities were designating revenue sharing monies for the staples of government service—police, fire, education—and therefore were disturbed by the decrease in federal assistance that general revenue sharing represented.

The federal government's decision in 1981 to eliminate state government participation in the revenue sharing program was predicated on the conclusion that the fiscal condition of state governments no longer warranted federal subsidies.⁹ The same can hardly be said of New England's major cities in 1985.

In our view, the federal government accepted certain "parental" responsibilities in 1972 when it created the general revenue sharing program, among them the

commitment to nurture cities' use of this money and to create an atmosphere of fiscal strength at the city level, rather than further the urban addiction to federal funds. The task of weaning urban America away from the flow of federal funds cannot be accomplished overnight. While some may see a strategy reminiscent of triage as an acceptable approach to federal deficit-cutting policies, we do not, since it means certain regression for older cities that are just beginning to recover from the burdens of a severe recession, record inflation, and increased pressures to provide social services for a dependent population of urban poor.

With an eye toward its own goal of deficit reduction, the federal government should promote a policy of phased reduction in general revenue sharing rather than one of drastic cuts. In the scenario we envision, phased reduction would:

postpone the termination of the fiscal general revenue sharing grants into the next decade;

provide grants on a revised need-based formula that would consider: (1) the income level of the population, (2) the ability of the city to use its own-source revenues, other than the local property tax, to replace the GRS share of revenues, and (3) the ability of the state and county governments to provide supplemental assistance specifically to mitigate the fiscal hardship induced by the elimination of GRS; and

require the dedication of any continued GRS funds for programs that will be terminated when GRS ends unless new revenue sources are developed.

Federal Grants

The Carter Administration had a very good urban policy until it announced it was going to develop one.

— Richard Nathan
The Brookings Institution

When Richard Nixon was president, the federal share of city government revenues was 5 percent. By 1978, midway through the Carter Administration and before President Carter enacted his new national urban policy, the federal share of city government revenues reached its peak at 15 percent.¹⁰ It is little wonder that urban leaders preferred the earlier Carter urban aid flow to the more bureaucratic grantsmanship policies of Carter's New Partnership national urban policy. Despite Carter's best efforts, the New Partnership represented more paperwork, more politics, fewer projects, and less cash.

A brief review of how the use of federal funds shaped the urban fiscal landscape illustrates why the proposed reductions in federal grants in the fiscal 1986 budget will be certain to cause service disruptions and disorganization in the urban financial planning process. Federal aid to state and local governments, which was less than \$1 billion in the early 1940s, grew to \$7 billion by 1960, \$23 billion by 1970, and more than \$96 billion by 1981.¹¹ As the dollars grew, so did the programs through which they were funneled. Barely a dozen programs in the mid-forties swelled to nearly 200 by the mid-sixties and then doubled to more than 400 by 1970.¹²

Not only was federal domestic spending growing, but so was the federal government's direct involvement in local government affairs. The federal government

was responsible for providing funds and operating guidelines for the War on Poverty, Model Cities, the Elementary and Secondary Education Act, the Urban Mass Transit Administration, and the Urban Development Action Grants, as well as for coalescing constituencies for each of these programs. These constituencies, which evolved into sources of urban electoral power, first developed a taste for the money, then an expectation of more money, and, finally, a dependence on every dollar received.

10 The massive infusion of federal money created almost as many problems as it solved. Federal grants for capital projects were frequently biased in favor of new construction. As a result, some local priorities were deferred in favor of projects that were targeted for federal support. From 1957 to 1977, as the federal share of capital project funding increased from 10 to 40 percent of total project costs, the existing infrastructure—roads, bridges, water and sewer systems, and public buildings—eroded, owing to a lack of funding for repair and replacement of constructed projects. By 1979, as policymakers began to focus their attention on the need for maintenance of the existing infrastructure, federal funding for these local projects had begun to decline in response to federal budgetary pressures.¹³

Even the Final Report of the Urban and Regional Policy Group, chaired by then Secretary of Housing and Urban Development Patricia Roberts Harris, commented on the serious shortcomings of federal urban aid programs:

Programs have evolved in a piecemeal fashion, causing problems of administration and coordination. While efforts at funding innovative programs like urban renewal have helped cities redevelop deteriorated areas, they have also ended up deteriorating more low-income housing than they have replaced. . . . They have weakened the neighborhoods and encouraged suburban sprawl. . . . The Federal Government has supported the development of industry outside the central cities while funding training programs in the central cities for jobs that did not exist.¹⁴

Though the report was intended to serve as a framework for the New Partnership subsequently proposed by President Carter, it is questionable whether the administration fully appreciated the report's significance. The administration should have concluded from it that local governments needed to strengthen their independent capacities to accurately determine their own project priorities and to establish the means of funding their desired projects and programs. Instead, the president's speech announcing the new urban policy demonstrated the administration's deduction that further federal intervention in local priority-setting was not only desirable, but actually required:

During this period, the early 1970s, the Federal government retreated from its responsibilities, leaving states and localities with insufficient resources, interest or leadership to accomplish all that needed to be done. We learned that states and localities cannot solve the problems by themselves. . . . These experiences taught us that a successful urban policy must build a partnership that involves the leadership of the Federal government and the participation of all levels of governments, the private sector, neighborhood and voluntary organizations and individual citizens.¹⁵

The New Federalism of the Reagan Administration, which followed on the heels of Carter's lackluster urban effort, took a dramatically different course. Instead of continuing the policy of interposing the federal government in local affairs, it

enacted programmatic reductions that resulted in a loss of 13.3 percent of federal aid in a single year to cities with populations of more than 250,000. The Urban Institute estimated that the policy of New Federalism, if fully implemented, would mean that the federal government's share of state and local budgets would be reduced from 25 percent in 1984 to 4 percent by 1997.¹⁶

This feast-to-famine cycle of federal funding for urban America does not provide the basis for a sound policy of urban fiscal independence. For those New England cities that had made especially good use of federal grants to spur the revitalization of downtown areas, the reversal in federal funding policies represents a particular hardship. In fact, the reduction of funds for Urban Development Action Grants (UDAGs) will especially affect New England, because this region of the country has established an exceptionally broad-based success record as a result of UDAG projects.

In Boston alone, UDAG funds of more than \$60 million have spurred development of some twenty projects since 1978, while Community Development Block Grants (CDBGs) provided an average of \$28.3 million per year between 1976 and 1980 and have been providing about \$22 million per year since then. Portland, Maine, has also utilized UDAG and CDBG funds creatively to help finance the revitalization of its central business district. Private capital to support the development of the important waterfront area and the redevelopment of the major Bath Iron Works facility was obtained as a result of the seed monies made available by the selective use of these federal programs to match city-selected priorities. Providence is another city with a successful, major downtown redevelopment program, the Capital Center Project, which plans to relocate the city's train station in order to free approximately thirty-two acres for commercial real estate development.¹⁷ Like Boston and Portland, Providence has made excellent use of its federal grant monies to elicit private participation in public capital projects that otherwise would have had great difficulty meeting start-up cost requirements.

Based on the many media accounts of groundbreaking ceremonies for federally funded downtown development sites, the employment benefits of these grant programs are quite significant. (In fact, quantifying job-generation potential is a standard requirement on federal grant applications.) Although less easily quantified, the positive impact on local economic development from Urban Mass Transit Authority improvement monies and Environmental Protection Agency technical assistance funds is no less important. Federal grant programs have been responsible not only for original projects but also for the amelioration of already existing facilities. Thus, by improving the general quality of life in urban centers, the programs have increased their ability to attract both new and expanding businesses.

The decision of the Reagan Administration greatly to restrict the allocation of monies for *future* development projects will retard but not irreparably cripple the development process. However, the reduction in grants for development projects *already beyond the planning process stage* may be responsible for the reversal of the most positive economic development trends that these cities have witnessed since the outset of the federal grant programs. The administration's recent willingness to create "enterprise zones" as examples of an urban assistance program designed to replace the direct funding of priority projects is admirable, but this mechanism will not provide sufficient assistance for cities trying to sustain their urban economic recovery.

What Cities Can Do

Having reviewed the history and current status of federal grants, we can now turn our attention to an assessment of what New England's major cities can do to foster their transition to fiscal stability and independence by the year 2000. Based on Congress's approach to the fiscal 1986 budget, it is clear that the federal government's past role in urban economic development will be altered in response to the national priority of federal budget cutting. New England cities, therefore, should consider amending their own financial planning processes to reflect a newfound awareness of the federal government's eroding commitment to its older cities:

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Cities should not continue to apply for federal grants that mandate levels of programmatic service the total annual costs for which cannot be provided in the year the grant is received. In short, older cities cannot afford to accept federal money if they cannot go along with the federal strings that accompany it. Cities should assume that henceforth seed money will be just that and follow-up funds for continuation of programs will not be awarded.

Cities should not apply for federal grants that require matching monies unless these monies can be placed on reserve at the time the grant applications are submitted. Older cities cannot afford to continue seeking federal money like the already debt-burdened bargain hunter who makes unnecessary purchases merely because an attractive discount is available.

Cities must refocus the efforts of their national lobbying organizations, the U.S. Conference of Mayors and the National League of Cities. The request for future federal funds should be restricted to development monies that will provide leverage to obtain private capital, and should not include programmatic funds that eventually will place a further drain on municipal treasuries. Through their lobbying activities, older cities in particular must assert publicly that federal intrusions into municipal priority-setting are at an end because the flow of federal funds is at its end.

In the coming decade, cities should use the federal grants system to acquire the tools they will need for their economic independence instead of merely seeking a continuation of funding for the programs that fostered the fiscal paternalism responsible for bigger municipal deficits.

Federal Tax Policy

Two specific elements of federal tax policy have had a significant impact on the ability of city governments to provide for themselves. The first element is the provision *allowing* municipal governments to raise funds by soliciting monies from capital markets on a tax-exempt basis. The second element is the directive *preventing* municipal governments from raising funds by taxing property owned by education institutions, hospitals, churches, and state and federal governments.

The use of tax-exempt debt by municipalities has increased sevenfold since 1959.¹⁸ Access to the capital markets has been a positive source of assistance to municipal governments seeking long-term funds for new projects or short-term

funds to ease cash-flow burdens. Big-city mayors have also recognized the usefulness of private-purpose tax-exempt bonds as tools to aid economic development and to promote industrial diversification. As the Advisory Committee on Intergovernmental Relations recently commented, "The use of tax-exempt bonds for economic development becomes increasingly important . . . as federal grants are cut back and officials are hard put to find economic incentives to lure industries to their areas."¹⁹

With the federal government moving ahead in its deficit-cutting efforts, increased attention has been paid to the drain on the federal Treasury caused by the record level of long-term debt—surpassing \$90 billion in 1983—that has been issued. In their efforts to reduce the overall volume of debt, federal policymakers have attempted to redefine the purposes for which tax-exempt debt may be issued.²⁰ If changes restricting tax-exempt debt are enacted by the Congress, debt-spurred economic development of convention centers, retail areas, resource recovery plants, warehouse expansions, private educational facilities, port authorities, airports, and public housing may be adversely affected. The tax reforms of 1984 have already begun to curtail local plans for repairs to and expansion of a number of job-generating capital projects: state governments and public authorities have been limited in the issuance of industrial development bonds to a predetermined annual allocation of tax-exempt debt, based on a per-capita formula.

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While the federal government is restricting the access of municipalities to tax-exempt capital markets, it is doing nothing to restrict the expansion of public educational facilities, hospitals, and state and federal government buildings within New England's major cities. Though the new construction may temporarily add workers to employment rolls, it permanently removes real estate parcels of significant value from the property tax rolls, which further aggravates an already existing problem. In Boston, where 47 percent of all property remains entirely untaxed, there is the largest proportion of tax-exempt property in any major U.S. city other than in Washington, D.C.²¹ Hartford suffers not only because 36 percent of its property is tax-exempt but also because this commitment of property in preferred locations restricts the physical space available for further commercial development capable of generating substantial property tax revenues.²²

One of the remedies for this problem that is acceptable to state and municipal governments is the use of PILOTS—Payment in Lieu of Taxes—by tax-exempt institutions. These negotiated payments are clearly not the equivalent of a property tax payment, which by its very nature grows as the wealth of the land and its appurtenances increases. Nevertheless, PILOTS provide one avenue to ease the burden of tax-exempt properties.

Federal tax policy has been utilized for years to provide indirect subsidies for special interest groups or to encourage development in sectors of the economy that otherwise would not expand, owing to the lack of monies required for start-up activities. Previously, much of the tax aid provided was concentrated on assisting business growth focused primarily on new development and on the Sun Belt area. Both the investment tax credit and accelerated depreciation for new industrial or commercial plants encouraged investments in new structures and in growing areas, rather than in the older, more settled cities of New England.²³ Now that the initial exodus from the Northeast to the Sun Belt has taken place, it

is critical for New England cities to utilize every economic development tool available to encourage existing business expansion and the spawning of new companies through venture capital operations, thereby creating new jobs.

There are several aspects of pending federal tax reform legislation that cities must aggressively fight if they do not want to risk losing some badly needed financial opportunities:

Cities must lobby in opposition to those tax simplification proposals that would eliminate the federal income tax deduction for state and local taxes. Though such tax law change would save almost \$30 billion for the U.S. Treasury, it would be doing so at the direct expense of municipal governments already hurt by previously mentioned cutbacks of federal aid.

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Cities must lobby to prevent tax reform proposals from further restricting the volume of tax-exempt revenue bonds. With estimates for the cost of required upgrades of municipal water and sewerage systems by the year 1990 exceeding \$90 billion, municipalities can hardly afford to increase their cost of borrowing to improve these systems.²⁴

Cities must begin to lobby for the extension of legislation that permits the issuance of tax-exempt debt to subsidize single- and multifamily housing development. Making center city housing affordable is as important to attracting young families to the city as any element of a sound urban plan for the future.

State Aid

Just as the twig is bent, the tree's inclined.

— Alexander Pope, *Moral Essays*

Despite what some state legislators may think, no big-city mayor enjoys the annual ritual of going to the state capital, hat in hand, to pander for state aid. This process is frequently accompanied by stern lectures from suburban legislators on how increased state assistance would not be necessary if urban governments would control their profligate spending habits.

It is a myth of public finance that New England's major cities need more state aid because they cannot control their expenditures. It is a fact, though, that increased state aid is required almost annually because city governments in New England cannot control their own means of revenue generation. For example, Boston's economic resurgence has been good for its business leaders but of little help to its government. At times when the state prospers, Boston may receive a share of its newfound largesse, but a disproportionately small share. Yet when state growth is limited, Boston is in trouble. The reason is simple: with only the local property tax to rely on and with an overabundance of tax-exempt properties, Boston must look to Massachusetts to pay for an ever-increasing percentage of city services. Boston claims that it generates about \$1.1 billion in state revenues; yet it receives only 21 percent of that amount in direct state assistance.²⁵

In fiscal 1985, state aid represented 34.8 percent of all Boston revenues. In the same year, Connecticut's assistance represented 37 percent of Hartford's revenues. Both cities are state capitals, both serve as the economic growth centers for their states, and both are annually dependent on their state governments to define the

parameters of service and the potential for excellence in their municipal governments. For both cities, the success of the appeal for funds to the state legislature is more likely to be a measure of mayoral job performance than of either the municipal economy or the municipal budget. "Good" mayors are those who get along well with powerful state leaders. Whether such mayors are strong in personal leadership or adroit as personnel managers or creative as program engineers becomes quite secondary, and it is easy to see that this is not the most efficient way to run a government. A mayor of a major New England city in 1985 should be judged on more than the lobbying skills required to garner sufficient state aid once again to temporarily bridge the gap between expenditures and revenues.

If cities are to remain viable as governmental entities providing services and policy direction for their constituencies, they need to have the fiscal independence which only a diversified revenue base can provide. As author Ray Bahl has observed, "City governments could argue that state governments regulate their fiscal decisions and constrain their fiscal options."²⁶ To alter that present-day scenario, city governments should:

seek independent revenue-generating powers in lieu of additional state aid;

dedicate state aid to specific categories of services, such as police, fire, and snow removal, in order to develop a more clearly articulated public argument for more money; and

seek to increase the PILOTS made by state government for tax-exempt state properties owned within the city's limits.

Property Taxes

In terms of public finance, New England's major cities share one glaring weakness: a revenue base that is far too dependent on the local property tax. This overdependence is particularly problematical in New England because the property tax does not respond well to economic growth in older cities,²⁷ given the limited areas available for new construction and for extensive expansions. Additionally, the property tax is regressive and places a disproportionate share of the burden of central city costs on the working poor residents of the city. As a result, increased levels of city services that are paid for by local property taxes effectively represent a transfer of real income from the lower- to the middle-income population of a city.²⁸

For example, in Boston the property tax represents 37.6 percent of the city's total revenues. State and federal subsidies aside, the property tax provides more than 90 percent of all city-derived revenues. At the onset of Proposition 2½, Boston was collecting \$518 million annually in property tax payments, an amount which dropped by some 30 percent, to \$363 million, only four years later.

In Burlington, Vermont, 68.2 percent of all city-based revenues are derived from the property tax. Manchester, New Hampshire, similarly receives 69.6 percent of its revenues from the property tax, and Portland, Maine, receives 73.3 percent. Portland has taken a number of steps to reduce government personnel levels and to develop sewerage system, airport, and port facility revenues, thereby beginning the process of reducing the city's dependence on the property tax.²⁹

During the early 1980s, reliance on property tax was a chief factor contributing to the financial problems that beset several New England cities. In 1982, with 62.5 percent of city revenues coming from the tax, Providence could not adjust its expenditure pattern to a 10 percent delinquency rate in collection of the tax.³⁰ In 1981 the property tax provided 58.1 percent of all revenues in Hartford, but with 36 percent of that city's property being tax-exempt, it was estimated that about \$41 million in potential revenues from property taxes was lost.³¹

A number of New England's larger cities have been enjoying a building boom of late that has helped to increase the property tax base without penalizing central city residents. As that period of new construction and redevelopment subsides, greater attention must be focused on how to expand the tax base without creating disincentives for business growth or more roadblocks to home ownership. Regardless of the quality of city services or the reputation of a city's school system, property taxes can create economic barriers for young families wishing to enter a neighborhood.

Mayoral plans or state government directives for city assessors to conduct comprehensive revaluation efforts do not solve the property tax problem. Such actions merely affirm that the existing tax, no matter how burdensome, will be apportioned more equitably. Recommendations to enact city sales taxes or income taxes for city commuters have been analyzed correctly as disincentives for business growth. The potential for regional income or sales taxes, however, has not been comprehensively reviewed.

While a localized commuter income tax could encourage business to relocate to suburban office park sites where feasible, a regional commuter income tax surcharge would incorporate both the central city and the suburban business locations. The tax would be set and collected by the state. The proceeds would be used to pay for the state's assumption of central city costs peculiar to the operation of the downtown area, that is, transportation, police, fire, and redevelopment-agency overhead expenses. By allocating business district costs to an employment-related tax—that is, by instituting a commuter income tax surcharge—cities would be able to apportion the cost of neighborhood operations to residents through their property taxes. The property tax would then be returned to its role as the primary tax to support city services for city residents, in lieu of the current requirement that it pay not only for neighborhood residents' service costs but also for those of the city's visitors, businesses, and nonresident business employees.

User Fees and Other Revenue Sources

It appears unlikely that user charges can play a major role in the fiscal rejuvenation of the central cities.

— Colin C. Blaydon and Steven R. Gilford
 "Financing the Cities: An Issue Agenda, 1977," in
Municipal Finance: The Duke Law Journal Symposium

Violators can now pay their City of Boston parking tickets by using Visa or MasterCard, which shows that New England's largest city is taking imaginative and even extreme steps to capture every available dollar of nontax revenues. While

almost 13 percent of city revenues in 1957 were raised from user charges, by 1975 only 18 percent of these revenues were derived from this source,³² reflecting the comparatively limited growth in this area of taxation. While transportation, water, sewer, and inspectional services, along with the costs of document production, can be passed on directly to the service-recipient public, the city's most costly services—education, fire, and police—cannot be budgeted as successfully on a user-charge basis. Consequently, though user charges can help fill city revenue coffers, they really cannot be relied on to close major revenue gaps caused by increasing personnel costs for essential city services. In fact, licenses and fees, because of their regressive nature, are usually restricted to the amount required to repay government for the cost of their administration and collection. The urban centers of New England, already home to a disproportionate number of the poor, would not be assisting their own tax-paying constituencies by further taxing them in this fashion. Taxes on services rather than on wealth are not an answer to urban ills; they are merely a reminder to all city residents that every segment of the population is being called upon to support city services.

The politics of revenue generation become most difficult when small, incremental fees and charges are levied on the average city resident instead of on corporations doing business in the city or on suburban residents utilizing the city as a center for education, entertainment, health care, and employment opportunity.

In fiscal 1985, Boston's user fees provided 4.4 percent of its total revenues, while in Hartford they provided 5 percent of revenues in the same year.³³ Given the determined efforts of both cities with regard to user fees, it would appear that no matter how successfully these taxes are selected for application and then collected, they will never amount to a sum sufficient to pay for the most significant costs of government operation.

While New England cities should be vigilant in their pursuit of user-fee revenues, each one of them should conduct an updated evaluation of the potential for enhancing this source of revenue. Instead of focusing on user fees, major cities should direct their efforts toward per-capita taxes that can be exported to those visitors to the city or to business-district employees who, while they benefit from the quality of city services, are not required to pay for the cost of these services when they return to their own state or suburban bedroom community. These export taxes would include surcharges on entertainment and sporting events, student dormitory occupancy, parking spaces, hotel-motel occupancy, hospital bed occupancy, and airport departure fees. Since taxes and fees of this sort, unlike traditionally defined user fees, could generate revenues from a mostly nonresident tax-paying public, they would create more politically palatable sources of financial independence, as well as fiscally more rewarding ones.

Looking to the Future

It was the inability to grasp the totality that permitted officials to walk straight ahead, eyes wide open, and plunge directly off the financial cliffs.

— Charles R. Morris, describing the circumstances surrounding the 1975 default by New York City in *The Cost of Good Intentions*

Most people are still able to fantasize about the possibilities for an enhanced quality of life in the year 2000, but city governments look to the future with an abiding sense of insecurity as to the role cities will be able to play in the system of governance. Under the present municipal finance structure, which requires cities to look to higher-tier governments to direct their mandates, coalesce their constituencies, and foot their bills, the best urban New England can hope for is the status quo.

Our premise is simple: the status quo does not provide an acceptable urban policy course for the future. Policies of fiscal paternalism must not be allowed to continue unabated and unchallenged. Urban financial planning must replace urban grantsmanship in defining the programs that cities can provide to their residents. Own-source city revenues must grow as urban economies improve. City residents *should* be able to garner the financial support of suburban residents who derive benefits from the economic vitality of urban commercial centers. City residents should be expected to bear the fiscal burdens of their own neighborhoods, but they should *not* be asked to pay for the maintenance and development of the widely utilized downtown areas.

Cities must assess the effect of current fiscal policies on their ability to determine their course outside the policy initiatives of the White House or the State House. Only through such realistic appraisal can they plan adequately for the future. Having made such appraisals, cities could take the following steps toward assuring their financial independence for the future.

Create New Revenue Sources

For revenue diversification to be successful, sources for funds must meet certain criteria beyond the ability initially to provide enough monies.

Collection of the revenue source must lend itself to easy administration with a low rate of default and at a cost that allows a net revenue yield of sufficient size. The new source must have growth potential that will enable it to augment in response to positive economic trends. It must also have a formula or a taxpayer group that can be varied, in either case enabling the revenue yield to increase during times of economic downturn.

Finally, the public must find the tax acceptable, despite its reticence to support any tax increase. The revenue source must equally affect taxpayers who are receiving an equivalent service or who own property of equal value. Efficiency, expandability, equity, and acceptability are the elements that are key to a revenue program's success in satisfying political requirements the day it is enacted and in fulfilling public finance requirements decades later.³⁴

Redefine Municipal Services

Given the financial limitations that cities face, city governments must work to redefine what business they should be in and what segments of the population they should be certain to serve. The financing and delivery of public services should be reevaluated with an eye toward shifting duplicative, unnecessary, or too broadly defined functions to a higher tier of government, if necessary.³⁵

Cities must look to the formation of regional service districts to provide services such as transportation, resource recovery, water and sewer maintenance, and port and airport operations, all of which benefit a general user community that is larger than the city's own resident population. Further, cities should not

be reluctant to assess property in the downtown or central business district or to implement a property tax surcharge that would cover the expense of providing costly fire services to high-rise buildings, repairs to frequently traveled streets in retail districts or warehouse areas, and police services for visiting dignitaries, conventions, sports events, and other public gatherings.

Lobby for State Assumption of Costs

By providing annual formula-based financial assistance to cities, state governments do not help to break the pattern of fiscal paternalism that seems endlessly to require more aid. By contrast, when state governments, as part of an accepted redefinition of municipal services, permanently assume the costs of programs currently provided by cities, they are creating a path for financial stability and independence that cities may follow.

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Why should the cost of correctional facilities be borne by cities instead of by state governments, which enact the criminal laws and operate the courts? Why should the cost of educational services be borne by cities and not by state governments, when minimum standards of proficiency are established by state departments of education and requirements for special programming are imposed by state and federal courts? Why should the cost of publicly subsidized housing be borne by cities, when state governments have greater access to the tax-exempt capital markets for housing revenue bonds? Why should the cost of social services for the elderly, the handicapped, and the poor be borne by cities, when standards for service and minimum support are established by the federal Constitution or by federal or state legislation? Cities could better cope with the cost of services particular to their own municipalities if state governments would assume the cost for these areas of service, rather than merely provide annual subsidies. As authors Colin Blaydon and Steve Gilford have observed:

Whatever course of action is ultimately selected, it seems clear that the states must assume a more active role in maintaining the financial strength of America's cities. The recent period of increasing federal responsibility for financing the cities has come to a close, and the problems of financing municipal services can no longer be left to local officials. A new era of vigorous state action is now required.³⁶

Proceed with Politically Imperfect Proposals

However we define the causes of the existing problem, the solutions all require taxes. Those who are using but not paying for a city's services today will be asked to pay for them tomorrow. Such a concept, no matter how gracefully articulated, carefully presented, or skillfully politicked, will not meet with the grateful approval of the electorate. Suburban voters do not view themselves as direct beneficiaries of central city services, and it is not surprising that they do not want to pay for that which they feel they do not receive. Urban politicians, whose opportunity to obtain higher office may depend on suburban votes, are not quick to alienate their constituents.

For years, the ritual dance for dollars performed by big-city mayors before state house audiences has been a carefully orchestrated plea for help at the budgetary breaking point. Dialogue about establishing urban financial independence has been lacking without the klieg lights that accompany a crisis. It is vital that proposals, though politically imperfect, be offered well in advance of the time

when solutions are required. Consensus building is a painstaking, arduous, educational process. It will take years, not several meetings or several months, to reacquaint suburban taxpayers with the sense that they do in fact derive direct benefits from their central cities and therefore have responsibilities to them.

New England's cities need a new direction for the management of their inter-governmental financial relationships. They need an opportunity to manage the programs for which they should be held responsible without being burdened by additional mandates and without being denied the state and federal benefits on which they have been led to rely. In anticipation of the year 2000, city governments—in partnership with their states—should begin to define the role they will play in the twenty-first century and to determine how their responsibilities will be financed. New England, as a region, does not need a national urban policy. New England's cities do need to shape a new urban policy for themselves. In recognition of how long it took for that policy to evolve to its present state, the task of redefining it should begin today. As McGee's First Law states in *The Book of Murphy's Laws*, "It's amazing how long it takes to complete something you are not working on."

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Robert Morris

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Health and welfare are usually considered secondary or peripheral concerns of modern society. The article considers how questions about the provision of social welfare are imbedded in the economic, social, moral, and political fabric of contemporary America and New England. Underlying trends of economic, social, and attitudinal change are outlined, and implications for the future are considered. The article also considers the role of universities in equipping the next generation of citizens to cope more effectively with the complex issues that are forcing a restructuring of urban services.

BEGINNING IN 1975, a fifty-year trend in American public policy began to shift. Political and public confidence in the ability of national government to remedy innumerable social and economic ills began to weaken. A combination of economic difficulties, budget deficits, and changed attitudes has produced not only a resistance to increasing personal taxation but a more deep-seated questioning of the pattern of public services, particularly the publicly funded social, health, and educational services, which account for about half of the federal budget and between 12 to 18 percent of the GNP. Although such expenditures provide basic protection against many of life's hazards—for example, illness, unemployment, injury, and retirement—and significantly reduce the proportion of the population living in poverty, many people now view the price tag as too high, with cost outweighing perceived benefits.

New England, like other regions in the country, has not been immune to this trend. The effect at both regional and national levels has been to restrict taxation and to explore alternative strategies for resolving the insecurities of an industrial economy. Private-sector arrangements are being examined as alternatives to public programs; proprietary efforts to deliver medical, health, and social and educational services are becoming popular.

These changes are not at the periphery of public life but at its center, for they pertain to the most crucial insecurities of modern urban existence and to past decisions involving about half of all governmental activity and a significant percentage of business effort. More important, over half the services—and expen-

ditures—are provided for citizens with middle-range incomes, and 80 percent of the population is directly affected by them. Publicly funded programs are no longer limited to the very poor, although the programs do raise 10 million people to the level of the poverty line and help another 15 million to survive, albeit below the poverty level. The standard of living of millions of middle-income families is improved by tax deductions for mortgage and other consumption payments; these families are relieved of the necessity of providing for the financial and health-care needs of aged parents; the health and the educational competence of future generations, on whom the economy depends, is safeguarded. In sum, it has been argued that the quality of life for all citizens depends on the continuation of the aforementioned services.

Despite the benefits to our nation, efforts persist, since 1975, to effect reductions in all these programs and even to abolish some of them.¹ Other attempts are being made to shift the cost of maintaining the programs back to individuals, families, or local governments. Whatever the motivation for the change may be, the structure of health-care and welfare services that was built up over the past fifty years is in for a major overhaul. That overhaul will force a reevaluation of the living conditions facing most citizens—not only the poor and “truly needy”—in the immediate future, as well as an examination of how these conditions can be dealt with in ways that are consistent with our democratic ideals.

Basic Trends Affecting Future Development

There is widespread *dissatisfaction with the results of programs* that were evolved over the past half-century, wholly apart from questions of cost or ideology. This dissatisfaction is expressed across the entire spectrum of political opinion, from right to left. In some measure, it is due to our twentieth-century belief that *all* problems must have solutions, and short-term solutions at that. There is impatience with the view that some events, like death, disablement, mental illness, or economic dependency in cycles of boom and bust, still lie beyond our human ability to control them. In part, the impatience stems from the size and complexity of organizations that we have built on top of ad hoc and jerrybuilt policies, organizations that are not responsive to human variety and that have become nearly impossible to manage in a volatile political era. Whatever the cause, the dissatisfaction joins together opponents and proponents of such programs in a demand for change, but in divisive, opposing directions.

Our society has become increasingly self-regarding, with the highest value placed on each individual's being free to realize his or her greatest potential through individual effort, and, even more important, to make individual choices about lifestyle. These trends reinforce our basically individualistic culture. What is new is that today, confidence has been eroded in the ability of any structure or framework for collective effort through public means to provide the underpinning for such individualism in an equitable fashion. We are taught to make our lives by our own personal efforts, but there is little accompanying education about our unavoidable interdependence or about obligations that we must fulfill toward one another if society is not to splinter into a chaos of fragments. It is hard to see

that our personal job success and our choices of life-style and our open, mobile society have been made possible only by the collective efforts made through government, examples of which are tax subsidies enabling many businesses to stimulate production and the creation of jobs; public education, including technical and professional training via universities; veterans' education benefits; special education for the handicapped; diminution of discrimination on all grounds; and minimum protection against the hazards of temporary unemployment or industrial injury.

The question of why we have become more self-regarding is not easily answered. Is it because of the historically individualist culture of the frontier? Or is it the result of an educational and public media system that emphasizes this approach to modern society? Is it an essential ingredient in our definition of freedom? Or is it a human reaction to a period of uncertainty in the world, when all of us prefer to protect ourselves and when our confidence in government has been weakened by the imperfections of its arrangements? Has our confidence in mutual aid been weakened by a long period of reliance on government that is now viewed as unsatisfactory? We still talk about community, but the sinews and muscle of community consist of interdependence to which we only pay lip service; in reality we limit this interdependence to our families, our immediate circle of friends and colleagues, and those individuals who are culturally and ethnically like ourselves. "Community" seldom extends in our thinking beyond the people we know and are familiar with. All others are strangers who lie outside our major concerns.

Our ideas about dependency have changed. A considerable portion of our health and social expenditures goes to make survival possible for that 15 and sometimes 20 percent of our population that lacks independent means of support, those "others" who are dependent on the rest of us for at least some of the time. One of the inescapable facts of modern society is that some percentage of the population will be unable to pay its own way through working simply because work is not accessible at the time, place, and skill level appropriate to the dependent able-bodied. Family care for the handicapped or for minors is further limited by our economy's need for the mobile labor of mothers as well as of husbands.

We face a major change in the nature and conception of dependency, a change for which a long past of a different orientation has not equipped us. Historically, western culture has a deep and charitable tradition of caring for its dependent individuals. This tradition was honored in ancient Israel, in classical Greece and Rome, in early Catholic Church doctrine, in feudal societies, during the Renaissance, and in the nineteenth century of industrial capitalism. But in those times the benefits of the tradition were concentrated on a few categories of clearly helpless people: the aged, widows and orphans, sometimes the sick, and victims of natural disasters visible to all. The dependent of today's society are different. The widow is more likely to be a young unmarried mother with small children. Minority youth are unable to attain work quickly enough, given the obstacles of often inadequate education, race prejudices, and the inheritance of cultural discrimination from the past. To these dependents have been added the able-bodied victims of rapid technological change—youth and middle-aged workers whose skills are rendered obsolete by new technology.

To make the picture more complex, we have a new type of aged individuals who live longer than ever before and who are on average able-bodied, vigorous, and better educated than their predecessors. These are not the decrepit or helpless aged of the past, yet we have excluded them through forced retirement from meaningful roles in society, while at the same time objecting to the social insurance tax burden imposed by their retirement. These elderly are unlikely, in the aggregate, to remain long content with retirement and no clear role. Universities have begun to offer some minor educational opportunities to this growing population to add to its sense of self-satisfaction, but they have not yet considered how to equip the elderly for their potential new roles.

Historically, the able-bodied never received much attention, for there was always *some* work available to them. Today, our society creates conditions in which work is either unavailable at the skill levels of the unemployed or, if it is available, it is at a pay level that maintains poverty for some groups indefinitely, without hope of escape. Jobs that offer the minimum wage with accompanying deductions for insurance and for the cost of transportation to the workplace guarantee continued poverty, especially for young female-headed families or low-skill workers with large families.

Nationally, 7 to 8 percent of persons who seek work are without work. We have come to accept this figure as "normal unemployment," whereas only a dozen years ago the acceptable figure for this phenomenon was 3 to 4 percent.² Economists argue that economic growth plus technological and economic change will in time produce enough jobs, or at least more of them. What this promise ignores is that the creation of new jobs takes place over many years, during which time human lives are wasted because there is no opportunity for productive participation in society, as the popular attitude defines it.³

To this 7 to 8 percent unemployed, we need to add those elderly who have vigor and who wish to be active but whom we keep out of the action, and those who have become discouraged and who have dropped out of the known labor force. The sum total of unemployed is many millions of people, otherwise able-bodied, who might be called the surplus people of the twentieth century.

The traditionally accepted dependencies of disability are increasing, not decreasing, in number, despite the gains in medical science. We are encountering a kind of failure of success. Our technology has reduced many hazards of disease, but it has also created new life-extending technologies that are highly problematical ethically and financially. For example, we have increased life expectancy and can keep some catastrophically ill people alive: spinal cord injury cases, stroke and some heart patients, end-state renal disease patients, and so forth. But for some of these survivors the added span of life is only a year or two, with perpetual medically invasive intervention at a cost of hundreds of thousands of dollars per case. Some are rescued from an early death but require a lifetime of care by others. We can save infants born with very low birth weights, a condition often due to substance abuse or simple malnutrition of the mother, but between 6 and 19 percent of this group of infants who survive will face a lifetime of severe disability, often neurological—the proportion of severely neurologically limited children has doubled in the past twenty years.⁴ At the other end of the life cycle, the proportion of the population over seventy-five years of age is increasing rapidly.

However, one out of every five people in this age group will succumb to a long-extended disability. These individuals represent the classical cases of dependence that we have been taught to provide for. Today, their numbers are increasing, although we expected them to decline.

The costs of medical technology are increasing much more rapidly than the GNP. Our commitment to such technology is stronger than ever, but access to it is becoming more difficult except for either the quite well-to-do or through large government subsidies, the use of which much current thinking resists.

Underpinning these trends is a continuing reluctance to increase our personal expenditure for collective or cooperative efforts via taxation and government action. The proportion of either American personal income or total GNP that is siphoned away from personal use through taxation into collective use is low by international comparisons; ours is about 20 to 30 percent, in contrast to 50 percent in other countries with economies as healthy as our own. A recent survey of philanthropic giving found that, in a seven-state region, a combination of charitable giving via income-tax-claimed deductions, contributions to the United Way, and corporation grants, when added together, still totaled less on a per-capita basis than the historic tithing that religious practice has elicited for centuries.⁵

While such conflicting influences are at work, *we have also undertaken to replace, since 1935, concepts of charity for the underprivileged with concepts of right and justice*, including ideas of legal resource to secure remedy for ills in place of the charitable impulses of philanthropists. Until the twentieth century, most welfare activities were based on a long tradition of personal or charitable giving to help the helpless. In the past one hundred years, an alternative concept—that all citizens have certain enforceable claims they can make upon their society—has slowly evolved. Initially the claims pertained only to protection of one's person. But to these have been added enforceable claims that certain helpless classes—the unemployed, the mentally ill, and so forth—can make based on their special conditions of need. This recent transformation of a three-thousand-year-old western tradition of personal and voluntary charity into a civic and enforceable right has not yet penetrated deeply into the civic or public consciousness. Old ideas of charity are still informing decisions made by voters even though political choices have been presented in a new framework, and the resulting confusion is substantial.

The facts of demography exert a powerful influence as our nation becomes more mature and its population grows older. But the simple increase in numbers of the aged, along with a decline in the birthrate, means not only that our population will be increasingly older, posing a challenge for our youth and energy-oriented culture; the numbers (if not the proportions) in need of either medical care or social supports because of enfeeblement will also increase. But the percentage of workers whose employment can assure care will decrease. The so-called dependency ratio—the number of persons needing support from those in the work force vis-à-vis the total number in the work force—is expected to rise from one in five to one in three.⁶ Our economy may be able to produce enough goods with less manpower, owing to automation, but the allocation of resources toward the elderly—an intergenerational transfer of resources—will rise and may encounter the tax resistance, already alluded to, of younger workers.

Moreover, the immigration of Hispanic and Asian populations has already altered the social makeup of most cities, so that they are less homogeneous than ever and are more like the eastern cities of the pre-World War I era, when a massive immigration from southern and eastern Europe transformed urban life. This new citizenry brings vitality and energy to the performance of many of the tasks that native Americans reject, but it requires a greater investment for education, acculturation, and training as it works its way into our culture.

Along with these varied trends, we can barely discern another, less easily articulated development. It can be variously identified as *a loss of civil self-confidence*, as an anxiety about a world changing too rapidly for our comprehension, or as an uncertainty about where we are heading. President Carter called it a national malaise, while President Reagan has tried to counter it by proclaiming that all is well and that we are “on a roll.” But deep doubts persist. Although we lack conclusive evidence about the permanence, depth, or extent of the so-called malaise, some of its contributory elements can be described as follows:

There is a notable lack of confidence about our economic future. Although we are proud of our past record, we see other nations producing the goods we use better and more cheaply than we can, while our own goods, although much in demand, no longer are able to command world markets.

There is a fear that our children will have fewer economic opportunities than we had. We dream of conquering space, but we may be witnessing a diminution of more earthly dreams. Already, by one estimate,⁷ the new economy has resulted in about 40 percent of the middle-income class lowering their standard of living throughout their working careers, although 60 percent have improved their position.

The prejudices of race still plague many people, and the demands of minorities for a greater share in the available well-being or wealth are viewed as a threat rather than as a realization of the democratic idea.

The overhanging concern about a nuclear holocaust, which has penetrated our subconscious if not our daily thinking, goes hand in hand with our fears that a competing economic order—that of socialism or communism—will threaten our standards and our supremacy in the world.

Periodic recession and economic decline throw people out of work and into fundamental insecurity with increasing regularity.

The picture, however, is not all one-sided. There have been many positive achievements in science, the arts, and the economy. Moreover, we now have a very large and dominant middle class or middle-income population, with only perhaps 15 percent of the population very poor and a small percentage extremely wealthy. This represents a historic achievement. In the 1930s, 30 percent of the population was very poor. In colonial America almost everyone was poor, although not dependent. In early nineteenth-century England, 50 percent of the population was poor. In classical Rome and Greece, 90 percent were poor.⁸ The negative side of this accomplishment is the existence of doubt among this large middle group as to whether their gains are secure.

The complexities of modern society require public or collective action to deal with the problems that change throws up. The measures we undertake to resolve

these problems may not be the best or the most efficient, but provisions of some kind against the insecurities and hazards of modern life are both required and expected by almost all citizens. This expectation has led us to invest much of our GNP (about 18 percent) and much of our national and local governmental budgets (about 40 to 50 percent) for these purposes, so that health and welfare and other social-protection measures are an integral part of our lives, not peripheral distractions.

Ultimately, the trends we have discussed will force our cities, our regions, and the nation to confront numerous unpalatable choices amid contradictory wishes. The public debate about such choices is muddled by multiform prejudices, misconceptions, and misperceptions. The most serious of these is a conviction, now held by many conservative thinkers, that the slowdown of the economy in the past has been due to the generosity of our welfare programs, even though more generous and less wealthy nations have not all experienced these same economic problems. A recent analysis, however, finds that, at most, one percent of possible GNP growth has been lost on account of social programs.⁹

Another misconception is that the beneficiaries of welfare are living in unearned luxury. Unearned, perhaps, but hardly luxury. Those who are receiving Aid to Families with Dependent Children (AFDC) subsist on monthly incomes that place them, at best, at 80 percent of the poverty level (when food stamps are included) in only three of the richest states. For the other recipients of AFDC, the level of real income ranges between 47 and 79 percent of the poverty level.¹⁰ The result is that several million children—our next generation—not only live in poverty but are at high risk of being malnourished and at risk of growing up permanently handicapped as well.

Finally, there is the misconception, already alluded to, that the costs of social programs can be blamed on the lazy, able-bodied poor. In fact, 80 percent of our social programs are provided to people without regard to their income,¹¹ which means that we have evolved an unbalanced welfare system. We did this in the belief that by making social benefits universal, the interests of all would safeguard the programs from political attack. This hope, of course, did not contemplate the relative costs of a broad universal program attended by constant efforts to improve benefits. Those costs have become too high for American voters or their politicians to accept, especially since the trends noted earlier are reinforced by a fear of national military insecurity, resulting in vastly increased investment in military programs.

The attempt at an imperfect and ill-conceived universalism has led to at least 45 percent of all social benefits going to citizens who live well above the poverty line.¹² The provisions of our welfare structure, which is built upon retirement, health benefits, and education, flow disproportionately to either the elderly or the economically better-off. In the health field, our limited insurance provision on a fee-for-service basis has meant that we spend twice as much money as a percentage of GNP to reach only half the proportion of the population that is serviced by the British system at half the cost. (Canada also has a more universal health system at a fraction of our cost.) Health protection is lacking for workers who lose their jobs; in order to save money, the working poor are made ineligible for Medicaid; and the protected aged, including the very poor aged, now pay half the costs of their medical care.

The combination of such trends and public misperceptions has brought our social programs to a crisis that will probably require some decades to overcome.

It is not possible to alter a system, no matter how badly conceived, in a few months. Our country is too vast, our population too large and diverse, our programs too complex and unwieldy, and the multiplicity of special-group interests that our individualistic society cherishes too extensive, for any change to be brought about quickly. What lies ahead is an extended period of debate, confusion, and frustration as quick solutions to massive and sometimes apparently insoluble problems are sought.

Is New England Different?

Current trends in welfare and social service programs exert as much influence in contemporary New England as they do in the nation as a whole, but in a few respects, New England differs from the national scene. Indeed, Massachusetts illustrates that the economic conditions of a region influence, but do not wholly govern, the evolution of social programs. Prior to the 1970s, New England as a whole suffered from a contracting economy, but Massachusetts maintained a leadership position with regard to social and health-care programs. Much of the state's legislation was liberal and pace-setting; its level of generosity with public assistance equaled that of more affluent areas, like New York and California. But with the sharp economic changes of the seventies and early eighties, social programs were cut back as tax constraint came to dominate political and public thinking.

Cuts in federal aid, which were reflected in state programs, resulted in a 10 percent reduction in maternal and children's health-care services, a 25 percent reduction in mental health services, and a greater than 10 percent reduction in other services. Medicaid, AFDC, and food stamps were cut between 10 and 24 percent, reducing the living standard for single-parent families and for low-income workers and those left unemployed by economic change.¹³

However, as soon as the Massachusetts economy began to recover through the resurgence of its high-technology industries, and as its unemployment level dropped to the lowest in the nation in 1984, the earlier trend toward the assumption of public social responsibility resumed. The reemergence of state leadership in this direction was visible in a new plan to contain escalating medical costs through the control of hospital revenues from all sources, not just from Medicare and Medicaid (the federally authorized and financed health programs for the retired and the poor only); additional appropriations to help hospitals offset the reductions in federal aid; an increase in home-care services for the elderly to reduce admissions to nursing homes; the introduction of new programs for the care of persons suffering from Alzheimer's disease; the use of the state public welfare authority to restore pre- and postnatal medical care for poor, pregnant mothers; and, in 1985, authorized increases in public assistance benefits to raise the income of all recipients of aid to the state poverty level.

New England differs from the national scene in other respects as well: First, it was settled earliest and has an older physical infrastructure. It also has an older population, as measured by the proportion of elders. Perhaps it differs most—at least in Boston and Massachusetts as a whole—through the presence of two major "industries": higher education and acute medical care. The medical system is heavily endowed with teaching medical centers whose reputation is worldwide; thus, a considerable proportion of state resources are funneled into acute, high-

technology, high-cost medical care, which also affects decisions that have to be made about other aspects of the economy. The current trends in the national economy and the welfare structure will, accordingly, be especially difficult for Massachusetts to adjust to.

The Potential Role of Universities

During the next twenty years, the character and adequacy of our local communities as well as of our national society will be shaped in a significant degree by how we handle the social welfare needs of our complex population as it faces these even more complex times. What citizens and leaders are all confronting is a redefinition or reaffirmation of the kind of society we want to have. Will it be a society of community sharing and cooperation, or one of sharply antagonistic classes? Will it be a community riven by insecurity or one that is able to go about the necessary tasks of the day with a reasonable sense of security concerning the unpredictable hazards of change and of life? Will our insecurities be borne by each of us singly, or can we cooperate to achieve an adequate degree of security both singly and collectively? If we go at it individually, then class divisions and inequities are bound to increase. If we approach our problems collectively, we will have some choices about how best to proceed. There is the risk that collective effort may produce authoritarian government. But equally, such effort can produce more equity and stability. It is possible to make choices that will bring about the latter outcome. The financial costs of various alternatives and their differing benefits have not yet been accounted for.

Many institutions will be engaged in this struggle to confront the future: business and industrial groups; civic groups like the League of Women Voters; churches; political parties; the bureaucracies of government and nongovernmental organizations alike; and unions. Universities can play a leading role in the resolution of problems in the welfare and social services systems if they so choose; what is required as a prerequisite to their involvement is a redefinition of the traditional functions of the university. The scope of these functions needs to be expanded to permit universities to inform upcoming generations about the realities of the world we are living in and the world we are moving toward. We may not know what the outcome will be, but we can learn more and teach more about how the tides of change are affecting us, even if we are unsure where they are leading us. Some universities have made a start in this direction, mainly by adding professional schools of many kinds: medicine, law, nursing, social work. But these schools are, today, mainly centers for teaching techniques that will enable students to make a private career for themselves. The rest of the university, with its arts and sciences and humanities, has barely been aware of the challenge and of how the humanities and social sciences, through education, can contribute constructively not only to understanding the problems but also to social, organizational, or social policy construction.

The Social Contract Revised

Since 1935, the United States has operated under an implicit, and sometimes explicit, contract about the sharing of responsibilities between national government,

local governments, families, and philanthropy.¹⁴ In a process that was quite unintended, this contract evolved over the past fifty years in such a way that most effort to deal with human needs was directed toward the national government in the form of requests for financial help and sometimes for leadership. Beginning with a basic national commitment to protect the unemployed and the aged through Social Security, unemployment insurance, AFDC, and general relief (later augmented by Supplementary Security Income as a catch-all safety net for those outside the labor force), the tendency has been to seek federal intervention to deal with the educational problems of all children and the developmentally disabled, to treat or care for the mentally ill and the retarded, to underwrite the rehabilitation of the seriously disabled, to overcome racial discrimination, to assure medical care for the poor, and to serve numerous people experiencing a variety of human difficulties, including drug and alcohol abuse.

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At the same time, there grew up a previously unrecognized, second component of welfare, which is provided through the employment benefit programs of industry and which now reaches about half of all employed persons, mainly those in large corporations:

Nonprofit philanthropic agencies have barely kept up their share of the contract through voluntary contributions, but they do much of the necessary work through the use of tax dollars.

We have also come to understand that a third major part of the contract is carried out through what are called tax expenditures—that is, benefits provided to individuals through the income tax system which are as good as direct public payments but are made up of *taxes not paid* on account of interest deductions for buying goods, home purchase, and exemptions for capital savings.

Well over half the total cost of government social and welfare programs, employee benefits, and the work of philanthropic institutions goes to benefit citizens who are not needy, but the blame for the cost is placed, in ignorance, on those who are poor. The system is extremely distorted, unfair, and unbalanced. By far the greatest share of benefits goes either for retirement or medical care for those over sixty years of age, to employees of large, unionized corporations mainly for acute medical and hospital benefits and retirement, or to the financing of middle-class purchases. A little known aspect of the distortion is that military, congressional, presidential, and other civil service employees have medical and retirement benefit programs that are much more generous than those that are provided for anyone else.

As a result of its imbalance, this security system has very large holes in it. Able-bodied adults, especially those in female-headed families where there are small children, are protected at levels far below the poverty line established as a national guide, which means that millions of children live in hunger and risk malnutrition. Workers in small businesses lack corporate benefit schemes. Other workers *with* benefits, if they become unemployed, are likely to lose medical benefits altogether, may lose retirement benefits already earned, and lose unemployment protection if out of work for a year. The Reagan Administration has enlarged the holes in the system regarding the able-bodied adult.

The social welfare system is entering another period of transition, or revision, because of attempts to reconcile these present distortions with the trends already discussed. Following are some questions to be answered by all citizens.

Can we produce an effective social protection system if we reduce government commitment in absolute and percentage terms? In the face of such a reduction, could we have an equitable social system consistent with our moral and democratic aspirations?

If we cannot reduce the fiscal obligation of government, would we be better off spending the money through proprietary or through philanthropic agencies? The current trendy phrase to describe the first alternative is "privatization" of public expenditure. It is widely asserted that private business can run hospitals, prisons, and welfare agencies better than anyone else, and more cheaply as well. Some responses to this claim are still debatable, but a few of them recur consistently. Proprietary social or health services achieve an outward appearance of efficiency by avoiding high-cost patients or clients, by limiting those they will serve, by dropping services that are not profitable even if those services are needed, and generally by not taking on the most costly and difficult problems. The one exception to this pattern may be with certain high-technology services like organ transplants, which will be paid for by enough wealthy patients, if not by government.¹⁵ Privately run services are effective in introducing more businesslike procedures and are especially skilled at operating in the black within a limited income. Their accounting expertise enables them to increase income through timely billing to government or to insurance companies and through follow-up of bad debts. On a fully controlled unit cost basis, plus a cost benefits comparison, however, the outlook for privatization is at best dubious. It will work under some conditions and for some classes, but not for all. It will not work if equity and adequate access for all are valued criteria. It is necessary to recall only that in the nineteenth century, when a large portion of the welfare system in the United States was carried by proprietary agencies, such extensive abuses resulted that public action became essential to redress them.

A related form of privatization is reliance upon individual insurance through employee benefits as a means of insuring against risk. This procedure warrants substantial attention, as long as its limitations are recognized. We do not know whether the mandate that *all* employers, even those with as few as three employees, must set up benefit systems would prove economical, or whether such a requirement would burden already overburdened small businesses with paperwork. We do not know what the costs of such a system through private employers would be, although Germany has such a model. Neither do we yet know whether such a scheme would prove equitable, given that benefits supplied by a highly profitable defense industry fueled by government contracts would be pitted against those provided by a small dry cleaning or grocery chain. Despite the questions that have been raised, there is room to consider a different role for the proprietary sector.

How will private philanthropy fit into the new social contract? There are no signs that the rate of philanthropic giving has risen or will rise dramatically, and it has represented less than 4 percent of all social expenditures since 1935. But such agencies could compete better with proprietary agencies in their business procedures than they do now, even though, like private business, they cannot underwrite high-cost services for a poor population. Philanthropic agencies have handicaps that must be overcome if they are to rival the capacities of private business. They lack capital reserves, which proprietary firms can obtain through

selling stocks; third-party payments to such agencies do not permit them to include capital start-up costs in their reimbursement plans the way profit-making firms can; and generally, the salary levels in philanthropic organizations are also lower than in profit-making concerns, so that their capacity to attract staff is more limited.

What are the moral and economic aspects of providing for the able-bodied adult in this new world? Murray¹⁶ and some others argue that all financial security should be abolished by government, that such help positively injures its recipients. Most analysts point out that there is no evidence to justify either the action or the conclusion.¹⁷ This is more a matter of *how* social programs are designed to do the least harm, but some argue that there is no cooperative responsibility for the needy except in the family. So moral choices are posed about citizens' obligation to strangers and the claims the deprived are entitled to make on society.

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There are also specifically economic issues to confront. We need to decide whether a high level of financial security for the able-bodied is a disincentive to work, and whether it undermines our economy in competition abroad and at home. The evidence for such beliefs is very sparse, even though it is daily asserted that we are weakened by our welfare programs. International comparisons contradict the media explanation and recent economic analyses indicate that there is little merit to these claims. Both Lampman and Bawden conclude that at most we may lose one percent in GNP growth because of welfare programs of all kinds, including those for the helpless and disabled.¹⁸ Some marginal evidence indicates that there is a slight disincentive to work more as income improves. This is a human reaction for all classes, not just the poor. On the other hand, a great deal of evidence indicates that for those with no income whatsoever, social programs do not at all serve as a deterrent to seeking work. In fact, beneficiaries of such programs flood in to work when it is available, and even the least employable—mothers of small children—prefer work to relief *if* there is work at all, *if* they have skills, *and if* their minor children can be well looked after.¹⁹

The question of whether to provide security for the able-bodied more than touches on morality; it poses vital moral questions: What kind of society do we envision for ourselves? Are the able-bodied to be treated as the beggars of pre-poor law England of 1601? Or do we believe that all human beings are entitled to some basic security, as long as they function as members of a community—that is, as long as they look for and take work when it is available? Given the past fifty years of experience, during which the absence of work opportunity has affected anywhere from 3 to 30 percent of the population in a roller coaster of economic ups and downs, can we believe that even a relatively stable community assures all its members of the minimum requirements for existence? The belief is now held by some that each person should secure protection for him/herself, rather than seek it jointly with others through government. Will actions based on this belief lead to the kind of society we want or not? Part of the answer depends on whether we believe that there are jobs for all if they would but look, or that there are not enough jobs for all able-bodied at all times or at any one time.

How shall we shape the federal role for welfare? The path of the new federalism scales down the national government's financial, administrative, and regulatory responsibilities in all areas except defense and the military, and turns the burden of most welfare back onto the states or onto private business. The question, in the

end, may be answered by how much federal revenue should be appropriated, even if the revenues are administered by the states with no federal control. There is much worth in the thesis that a nation as varied as ours would be served better through greater decentralization of the federal government and through other kinds of organized effort to reduce the costs and complexities involved in trying to run the preponderance of the welfare program by means of the vast bureaucracy in Washington. There is also much worth in exploring the notion that states can compete with each other as laboratories for innovation and invention in the social arena. The price for such diversity, however, may be a return to great inequities among the states, with poor people in poor states suffering at a level not morally justifiable while wealthy states have little poverty and ample resources. The underlying question is whether we see ourselves as one nation, in the same way as we hope to experience ourselves in a local community, or whether we choose to be a federation of independent localities fighting each other.

A basic constitutional question is embedded in this welfare issue: Should a one-hundred-and-fifty-year trend toward a strong central government be reversed, leading to a federation of powerful states? The last time this question was faced, we suffered a catastrophic civil war.

Another aspect of the social contract has to do with the family. During the past fifty years, families have slowly been relieved of some of their burdens and provided with certain benefits: help with medical costs, provision of basic income, and housing for aged parents; the cost of primary education for children and part of the cost of higher education for young adults; and care of some severely disabled, especially the elderly or the mentally retarded. Until 1980 we raised half the poor families, and most of the aged poor, above the poverty level. We have improved nutrition for poor children, enabling them to become healthier adults. For families with some means, this has meant that more of their income was released to improve the education of their older children and to raise the standard of living for the entire family. In the next period of our history, should families with means reassume more of these social costs? Should they pay more for their children's education, for their own housing and medical care, and so on? Should they, in effect, reduce their own standard of living? We have begun on this course by increasing the share that families must pay for higher education and the amounts that individuals must pay for medical care above and beyond their insurance protection. For the aged the additional cost of health care has risen from 20 to 44 percent of their medical bills.²⁰ And we have begun to tax retirement benefits for individuals whose total income exceeds \$25,000.

There are issues of income redistribution and social justice to be settled. All welfare involves some redistribution of wealth, but the adjustment to date has been minor. The shares of national income held by the top 5 percent of wealth holders dropped by one percent to 44.5 percent, and for the lowest 5 percent, it rose by .4 percent to 3.9 percent between 1947 and 1975.²¹ Even without facing any demand for equality of income, the issue of whether the present distribution is fair will persist; and if we are to retain our present economic system basically as is, the use of welfare as a means of narrowing the gap between the wealthy and the poor may be in the interest of revitalizing a sense of community and avoiding internal conflict. Between 1969 and 1979 median family income dropped,

after inflation and taxes were factored in. Since 1983 there has been some increase in median family income, but the increase has been small compared to the large numbers of individual fortunes created through the combination of an economic boom and tax cuts for the well-off. The disparity between upper- and lower-income groups seems to be on the rise after some fifty years of its being reduced by public policy.

Finally, a less global welfare issue pertains, but one with powerful ethical ramifications. How much difference among people, other than in terms of income, can we tolerate? We have tried to return to the mainstream of community life the mentally retarded, the mildly mentally ill, and youthful delinquents. These efforts are now being resisted by ordinary citizens, who object to having such persons live in their neighborhoods either because of personal antipathy or fear or anticipation of depressed property values. Whatever the explanations, a major welfare debate of the next decade will center on the question of whether we will segregate those who are different from most of us. The impulse to segregate is seen also in the pervasive fear of minorities and in the choice of location for clusters of low-cost housing for the poor elderly. There will always be differentiation in residence because of differences in economic class and culture, but is our desire—or need—to live only with people who are just like ourselves so strong that we must isolate all who differ?

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Conclusion

There is no convenient way to terminate this brief review of the complex and emotional issues that attach themselves to the welfare debate. It may have become clear that what once were minor issues concerning welfare now involve and pertain to all that matters: the very nature of our communities and our society; the basic ethical and philosophical questions about human relationships; and a large part of our economic life as well. If universities are to equip the youth of our nation to deal with such serious matters when they become mature citizens and must make choices about them, then the health and welfare services provide a tangible basis on which the scholarship of the academy and the realities of daily living can be joined. The result of such a union could be an electorate motivated to make democratic decisions with less prejudice, as well as an enhanced foundation in scientific knowledge about the world we are remaking. Universities have long been laboratories for scientific invention and discovery. Perhaps they can finally become equally effective laboratories for invention and discovery in the realms of human and social organization. Irving Howe has recently reminded us that Ralph Waldo Emerson was once viewed as a prophet of unseizable opportunities in a youthful American democracy.²² Will we seize some of the opportunities that a more grown-up democracy affords?

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George V. Higgins

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TWENTY-THREE YEARS AGO last spring, Irving Howe conducted a seminar for Stanford University graduate students bent upon intensive study of the works of Nathaniel Hawthorne and Herman Melville. The syllabus was daunting, requiring of the prudent seminarian not careful study of the masterful performances (Hawthorne's biography of the unfortunate Hester Prynne; Melville's fishing story), but Hawthorne's *Blithedale Romance* and Melville's *Pierre*. The professor was daunting, too; Mr. Howe at least in those days was a prepossessing man, capable of rudeness and protective of his eminence, not noticeably inclined toward gracious waiver of the privileges his rank conferred when he smelled impudence from mere novices. We sat there under his hegemony, frantically conjuring up "insights" from bad books which provoked few, ever conscious that our projected applications for financial aid and coveted assistantships might very well be shriveled by a mean comment from him, and we were not happy scholars.

I was not, at least. That seminar stood out in a thoroughly disagreeable year as an especially anomalous and pointless exercise. Mr. Howe, the 1976 recipient of the National Book Award for his *World of Our Fathers*, was simultaneously intensely Jewish and insistently socialist, inclined to dogmatize. His politics accounted for his selections of the two utopian, visionary, Tractarian dull novels written by Hawthorne and Melville in the throes of similar political ideologies and enthusiasms. I guess they did, anyway—I can't imagine any other motive to explain those assignments. His ethnic sensitivity I presume now to have been the wellspring of his evident disdain for a Boston College graduate whose round face and surname lent credence to suspicions he was Irish Catholic; I was young then, far from home for the first time, innocent of the bigoted anti-Catholicism then if not now fashionable as the intelligentsia's version of anti-Semitism. Slouching sullenly in my chair, hearing the birds in the palms outside herald in song an unearned spring's arrival to a land that knew not winter, I listened without recourse or right of reply (then, not now) to a bigoted ideologue from New York pontificate in Palo Alto about the mind, the morals, the ethics, and the character of New England, the place where I grew up.

That unsettling experience, one of many furnished without let or hindrance to me by that university and state (Do you know what they do out there? They list "lobster" on menus when crayfish is what they've got) in that dreadful year, carried with it, I suppose, the merit of abrading the surface of the certitudes about what I am and where I come from I had harbored until then. It also served with the rest of Stanford's many courtesies to make a quick quietus to my initial plans to live my life as a West Coast academic (as did, I should add, similar courtesies and veiled insults inflicted upon my first-year colleagues from the East in other graduate departments; of twenty who entered Stanford Ph.D. programs and my dormitory floor in the fall of 1961, sixteen voluntarily departed in June of 1962, settling for M.A.s). For this English major, at least, the best poetry of June of 1962 was that proclaimed by the public address system at San Francisco International Airport, announcing the departure of American Airlines' direct flight to Boston.

Since then a kindlier fate and somewhat better judgment than combined to cause me to choose Mr. Howe's seminar have on a good many occasions brought me back to Logan Airport in East Boston to depart New England, but always temporarily. I visit other places; this is where I live. The minds and characters, the morals and the ethics that one finds in New England have their faults and defects, but we are orderly when right and ashamed when we are wrong. We have a sense of decency. To a degree we seem to have a better sense of who we are and what we ought to be than I have seen elsewhere in their inhabitants. We know what evil is.

By one tradition, of course, evil is reputed to exist solely in the eye of the beholder. So I suppose I had better pause here and go back to the beginning, to the sources of my eyes.

The end of World War II released gasoline and tires to civilians like my father, and eliminated at the same time what I suspect had been the explanation he and my mother had until then made to my maternal grandmother, Evelyn Montgomery, for their omission to pay visits in the summer to her home in Hinesburg, Vermont. For the millions who have never heard of it, and with excellent reason, the center of Hinesburg in the late forties consisted of a creamery, Lantman's IGA general store, a Mobil gasoline station, the Congregational church, and the public school. Thirty miles or so south of Burlington, it was more or less a part of Richmond, a wider spot in the road to the north.

In the summer the Green Mountains collected heat and stored it in the valleys of Hinesburg, where it lay undisturbed by anything more than the occasional, vagrant hot breeze. The Jerseys in the pastures were lethargic, even for cows, and the maple leaves seldom stirred. I suppose I was six, maybe seven, when my father and mother loaded me and the baggage into the blue and white 1941 DeSoto and headed north from Rockland, Massachusetts, with a grim resignation perceptible even by child. We arrived in early evenings, on those visits that became detestably annual and remained so until I reached puberty (although that milestone was not the reason that they stopped—I don't know what the reason was, but I was grateful for it), and after Coca-Cola from juice glasses on the screened porch behind the grapevines guarding against intrusion by any fugitive breeze, the youngest of the three trail-hardened pilgrims was taken up the brown-painted staircase with the railing made of pipe to his lumpy bed in the room at

the northwest corner of the house, under the red tin roof which had conserved the heat all day especially for him. The single window to the north was opened on the wan pretense that there might be a cooling breeze, and it served admirably the convenience of abundant pollen from the surrounding fields. Much later, when I first read about the owls bearing away the farm from "Fern Hill," I knew two new things instantly: Dylan Thomas was a wonderful, lyrical poet and he did not have allergies.

Fairly early the next morning for a normally late riser, my father in his annual up-tempo imitation of Pontius Pilate washing hands of us would back the DeSoto down the steeply inclined gravel tracks of the driveway, cramping the front wheels to the limit in order to avoid hanging up the undercarriage on the steeper incline upward to the roadway at the bottom. If my eyes by then had not been swollen shut by allergic reaction, I would cry as I stood on the lawn and watched him desert my mother and me for a full two weeks of something approaching penal incarceration in Boredom Penitentiary. My mother was more restrained and did not show her dismay, but if either of us could have gone back home with him, abandoning the other hostage, either would have done so at once. I will accord to the late Evelyn Montgomery the *carte blanche* extended to all decedents not known to have been convicted of felonies, and content myself with the observation that she was an unhappy woman, and therefore a difficult one. It was not her fault, either, that her old car didn't work, and there was really no place to go in it anyway. But those circumstances all had much to do with the fact that her company and isolated village attracted few outsiders who had any other choice.

Evelyn had come from Scotland as a girl, whether alone or accompanied I do not know, bringing with her one trunk she still had when I met her. With childish heedlessness I rejected her importunate offers to provide me with an oral inventory of the contents of that trunk and the history of her life, begun across the sea while Bismarck was plaguing Europe, perhaps one of many slights by me and others accounting in part for her disposition. She met her husband, Roy, in time to give birth to my mother, her first child, in 1909. There is some doubt whether Roy's ancestry was Scottish or Irish, but none on the point that he was a Roman Catholic until she insisted that he renounce popery when he married her.

Notwithstanding that religious ductility, he seems not to have proven an especially felicitous marital catch. He was an unregenerate financial opportunist, capitalizing (but not very successfully) on what he learned circulating through the state as a dairy inspector by purchasing seriatim one broken-down operation after another, moving his family in, spending a few years working them and himself to their nubs in order to fix up the places, then selling off the now-spruce homes and barns to acquire another wreck. I remember Evelyn saying that "Roy always made money on his deals, but . . .," and letting her voice trail off. I can finish the sentence now for her, with some confidence: ". . . treating his family like a bunch of intrastate Joads who never did settle down."

While that was going on in Vermont, south of Boston what seems strikingly like a mirror image of it was in progress. My paternal grandfather was born in North Abington, one of a family of five brothers and one sister, in 1874. His father, Arthur, was an Orange Protestant, probably from Londonderry, converted to Green Catholicism by his wife, Mary. Charles J. Higgins was the sunniest, hardest

working, most generous and compassionate human being that anyone who met him will admit to having seen. He married Annie, who gave him no competition whatsoever in quest of such respect, and they had one child, my father, in 1906.

Therefore, when my mother, raised as a Protestant, married my father, raised as a Catholic and a fiercely believing one, she converted back to the faith her father had renounced to marry her mother, leaving the final family score of defectors at Romans 2 (Arthur and Doris), Protestants 1.

For several strong reasons valid in their times, my father and his father, and their various pastors at Holy Family Church, were inclined to take grim satisfaction from that sort of tally. While my grandfather commenced his adult life in the second phase of Irish assimilation into American economic life with fewer and smaller handicaps than his father had confronted, a more genteel but flourishing nativist prejudice still influenced his whole life. He progressed against it nicely, from hardware store clerk to hardware store owner, to tax collector, to town treasurer, to treasurer of the Rockland Cooperative Bank, only by much hard work done in furtherance of indissoluble alliances with other ambitious young men of Irish Catholic heritage.

A prime principle of their league was not to forget their own, not only their own families, but also their fellow Micks not gifted with their luck or wit. His priests believed, his friends believed, and he believed as well, that mutual aid and loyalty were the only hope that any of them had.

Charlie Higgins kept that creed for more than eighty years, some of them the decade of the Crash of '29. That was what accounted for the stream of mourners who tramped through his wake at his house (no funeral home wakes for real Irish, no matter how much grief; my father said he'd haunt me if I did that to him, and by God I didn't do it—I have got some sense). Most of them were people of modest circumstances in 1955, men and women in their sixties, their eyes filled with tears, grasping my fifteen-year-old hand in both of theirs, often embracing my nonplussed father, telling him who understood and me, who then did not: "During the Depression, Charlie Higgins saved my house. I couldn't pay the mortgage and my taxes, see, and I went up to see him, and I told Charlie all my troubles, and he said: 'Jim, don't worry, we won't take your house. We know you'll pay up when you can. Go home and don't worry.' " And when better times arrived, that is what they did. Of course if Charlie were around today, overlooking delinquent property taxes due the town, carrying mortgages defaulted at the bank, he would be indicted in short order and remanded to custody.

But then again, of course as well, if Charlie were around today, he might not dare to do it. There are many more laws now than there were then, a bewildering array of exquisitely technical statutes enacted to meet needs perceived during the gradual and continuing erosion of ad hoc, unwritten sanctions against wickedness. The strong secular creed of solidarity enforced in Charlie's day by churchmen and parishioners alike imposed upon the recipients of compassion obligations fully as solemn as it did upon grantors. My grandfather's standing in the community rested upon his decency to the temporarily needy family. That family's standing rested no less upon its justification of his trust when better times came back. As he and his fellow members of the upstart Mick bank board would not have dared to ape the callousness of the Protestant bankers they had challenged with their

venture, so the Rockland Co-op's borrowers would not have dared to dishonor or abuse their trust. Ostracism yawed for offenders in either camp. There was less need for statutes to punish banking wickedness, because there was less likelihood that irregular banking practices would result in losses to the bank.

The material rewards of the settled lifetime Charlie spent with his family in shoe-town Rockland, while not great by worldly standards, were markedly better than the ones that Roy spent gypsying from farm to Vermont farm with his. Charlie's family had been able to help him through two years of business school, my namesake granduncle through medical school, my father's namesake uncle through enough college to teach school, and my granduncles into steady trades. Charlie's relative prosperity secured not only a full A.B. for my father at Boston College, but also an M.A.

Those generational improvements in educational credentials, though, did not bring with them automatic access to better opportunities. Resourcefulness was still required. In the forties and fifties my father encountered in his professional career in public education evidence sufficient to persuade him his religion barred him from the executive positions he coveted. He overcame that bigotry with a modified version of the strategy my grandfather and his friends had employed to start the bank, channeling the energy of his resentment into electioneering among the increasing numbers of Irish Catholic teachers joining what is now the Massachusetts Teachers Association, becoming its treasurer. He went back to Rockland to secure his principalship from a five-member school board including three Micks, succeeding another Irish Catholic who had died in office (thus swapping, not so incidentally, the English teacher's position that was his joy and passionate *métier* for the greater status he perceived in a grueling, tedious, administrative post).

I emerged from the inculcation of his experiences and Charlie's into a cold day with snow blowing down the canyon of Boston's Milk Street one afternoon in February of 1967 with: a 1961 A.B. from Boston College; a 1965 M.A. from Stanford University; a law degree expected in June of 1967 from the Boston College Law School; a wife who wanted to have children soon; the sickening residue of a bad interview with a worse lawyer who had offered me sixty-five dollars a week to do scut work for him; no other job prospects or promising leads; and all my prejudices intact. I encountered Walter Jay Skinner (now a Boston federal judge), whom I had come to know in 1963 when as an assistant attorney general he had prosecuted the Hancock Raceway cases in the Hampden Superior Court in Springfield. I covered those trials as Springfield correspondent for the Associated Press. When he committed the blunder of asking me how things were going, I told him. Those trials had done much to inflame my judgment that my destiny in life was to try cases. Now here I was, almost ready to do that, and I couldn't get a job.

"Elliot Richardson's hiring staff," Jay said. "Why not apply to him?" And all of my gloomy bitterness at nearly everything in the world came out in one sour response along approximately these lines: "Oh, sure," I said. "Yankee Republican. I bet he's really beating the bushes for Irish Catholic Democrats without political connections. Can't find enough of them."

Jay Skinner's a nice man, nice enough to be harsh when the situation dictates. "Why don't you grow up?" he said. "That stuff's all gone by. Elliot doesn't care."

He didn't, either. And when he was succeeded by Robert H. Quinn, Democratic Speaker of the House of Representatives chosen by that body to complete Richardson's term in 1968, I discovered to my further gratification that the highly political Mr. Quinn did not expect the resignations of Mr. Richardson's appointees, nor any reduction of their prosecutorial zeal, but rather that they remain in place for as long as they wished, party renegades or no.

Such signal but far from singular demonstrations of decency from unexpected quarters over the years demolished many of the self-defensive certitudes that I inherited from forebears. Their credence of them in their times was certainly justified, but sometime before I reached the point in my life where my efforts to make my way called for their application, they became obsolete. Without for a moment meaning to imply that ethnic, religious, and racial prejudices are things of the past in New England, I have to posit the fact that I have either not suffered their application, or else have been too dense to see what was done to me. I prefer the former hypothesis. In the occasional contemplative moment, I have wondered whether there might perhaps be other areas in which my own empirical data indicate that some ideas I always trusted have also become obsolete. I have decided that there are.

For example: Donald Hall, in his splendid "Rusticus" inaugurating this forum for New Englanders who admit to making up what we write, in last year's winter/spring issue, designated me "one of the [Boston] *Globe's* resident Hibernians." I believe the designation was meant as a compliment, as I always do when it is uttered to my face, although I detect in it a certain imputation of insularity which I hope I do not have. But I question whether a mongrel such as I merits certification as a purebred Irishman, notwithstanding such assumptions by Messrs. Hall and Howe. If, after more than a century of New England family mixed-breed history, I am nevertheless obliged to claim an original ethnic origin influential of my point of view, I would say I am a Celt. That is the only thing my people have all been.

Except for the other thing, of course, which is New Englanders. New England, where I've lived most of my life, is a different matter. My middle-class upbringing in Rockland, only briefly interrupted by those dreaded Vermont trips and the "vacations" we took when my father attended NEA conventions in St. Louis and Miami Beach, and four years at Boston College had by June of 1961 inserted in my marrow some trace element which to this day affects every judgment that I make. That June, regrettably for me, I was not aware that this had happened, but by the following December, after a mere three months at Stanford among California heathen, I knew it all too well. I came home for Christmas like a prisoner on work-release, and when it came time for me to return to California after the holidays, I went with deep pain in my heart. Also in my belly, as it turned out—when I made my escape from that wretched place in June of 1962, I had copies of hospital records to enlighten doctors here, should my bleeding ulcer recur.

Most of the aspects of California life which I found repellent then—e.g.: the wave of drug use cresting under the malign genius of Owsley with his chemistry set in Berkeley, making LSD; the prevalence of sexual orgiasts among groups of people who otherwise appeared normal—of course soon made their way across the country (perhaps initially leapfrogging the Plains States) to the Atlantic littoral. But there were differences significant to me in the West and East Coast

behavior of respectively indigenous wantons, jades, and junkies: here there were nowhere near as many of them visible (from which I gradually surmised not that there were fewer of them in the East, but that they took more care to avoid detection, although it may be that I was aging fast, and was not getting invited to their gatherings). The ones who were visible, to evince an invincibly bourgeois attitude, were disreputable anyway. And even they were sheepish here, as they'd not been out there. On the Stanford campus on the Monday morning after the Saturday night when I'd learned to my shocked dismay that a "B.Y.O." off-campus party invitation did not mean I should bring a bottle of Jim Beam, but a companion of either gender amenable to group sex (lust-ridden as I was, I was nonetheless appalled by that idea), the people who'd attended the orgy had no trouble meeting my gaze—I had trouble meeting theirs. They were not ashamed of themselves, but I was ashamed of them.

Those coastal differences in decadent behavior I think attributable to the disparity between the two regions in likelihood of community disapproval for shameful acts, and the consequent ability of the actors to commit them without shame. Sin has always been pleasant, and therefore most of us have sinned. But in New England there was then and remains today a strong if reduced community consensus that when the self gets out of control, it had better be discreet. It is perfectly all right to remark that consensus as a lingering remainder of bluenose Puritanism, in my case and many others intensified by an Irish Catholic upbringing of the Jansenist subspecies. It is permissible as well to sneer at all its public manifestations, whether egregious (Boston Mayor Raymond Flynn's leadership of censors enraged by local production of *Sister Mary Ignatius Explains It All for You*) or moderate (protests by Irish Americans convinced that *Globe* cartoonist Paul Szep, portraying a leprechaun as a rat in an anti-IRA panel, would not have taken similar liberties depicting a Jewish villain of whom he disapproved), and it is indisputable as well that an element of hypocrisy is often involved in the enforcement of a public morality. But as Harvard's James Q. Wilson has so often pointed out, the enforcement of personal codes of morality and ethics, whatever their defects, first by the family and then by the community, is the engine which drives the machinery of social order. When those codes, however repressive, begin to break down, as they did about twenty years ago, the burdens of law enforcement increase geometrically.

It is in the nature of humankind to seek limits on behavior. When there are no visible limits, when the keenest eye cannot discern a probable informal punishment for previously merely shameful behavior, the more timid among us will behave shamefully, while the boldest will be piqued by the temptation to investigate whether there exist formal punishments for criminal acts. During the second of my three years as an assistant U.S. attorney in Boston, the presentencing reports prepared by the probation office on convicted defendants so regularly recorded ineffectual or utterly absent paternal influence of the subjects in their formative years that then-U.S. Attorney (now U.S. District Judge) Joseph L. Tauro and I began to keep an informal log of such entries; after six months or so, when the 93 percent incidence of such findings had been steady for a while, we stopped, and declared our suspicions confirmed. If, as my children have occasionally alleged, I am rather more vigilant of their comings-in and their goings-out than is strictly necessary, that is a part of the reason.

I am not sure I could marshal social reinforcements somewhere else to make such vigilance effective. Donald Hall has spent enough time in the South to inform the estimate he published in the last issue crediting the long-established society there with many of the same sinewy strengths mustered by ours, but I have not done that. The other places I have stayed—Washington, D.C., and California—did not present such strengths. The New England code of acceptable behavior, though marked by repeated infractions, remains in my estimation relatively sturdy, and however censorious and frequently irritating, accounts in considerable part for the fact that life here is more orderly than I have found it elsewhere. We have retained a sense of decency, still powerful enough to prompt even those flouting it, and getting caught, to feel a sense of guilt.

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That insistence on discretion has been the hallmark of the New England communities where I have spent enough time to gain a sense of place. Now, I am not here suggesting that a young newspaperman in his novitiate at the *Providence Journal* embarks upon eight months' residence in Rhode Island with powers of observation superior to those of an examiner from the Federal Deposit Insurance Corporation assigned out of Washington for the same period to the same place. Or that a year in Springfield, covering western Massachusetts for the AP, qualifies anyone as an expert on the manners and mores of people west of Worcester. What I am suggesting, though, is that the reporter has to concentrate as best he can those powers of observation which he happens to possess, and to develop as rapidly as possible a working understanding of what goes on in a new place, and what people there think of it, unless he really likes being reamed out by the copy desk when he gets something wrong. And, further, that the dependence of his continued employment upon his ability to make good use of his occupational right to interrogate total strangers from all walks of life implies a further incentive to glean as much as he can from what they say of what they think. He enters his new town surrounded at his new post by garrulous gents and ladies (whom he deems elderly at fifty-one or so) adjured by the generous traditions of the trade to conduct, free, gratis and for nothing, crash courses in the local history. If he is shrewd, he listens, and if he isn't shrewd he listens anyway, because reporters tell good stories and they're fun to collect, like old coins.

If you listen to those stories, and remember them as well, you will not only have good times on slow nights, but at greater leisure perceive what looks a lot like a common thread. That leitmotiv is that no matter what the stated offense that brought somebody down, the secular punishment that followed was either for flouting the consensus, or rank hypocrisy. Nothing I heard and saw later, prosecuting and defending here, changed my view on that. I think you can get away with quite a lot in New England, as a good many of us do, if you are discreet enough to do it privately and never boast that you are doing it and getting away with it, or claim that you aren't doing it. The Reverend Mr. Dimmesdale knew that; his whole life in Hawthorne's *Scarlet Letter* was destroyed anew each time he saw Hester with her A, because he in his position was impliedly announcing he himself was pure of lust. Since the community never caught on, he quite properly finished himself off. Good story, that—pure New England, too.

There are, of course, some drawbacks. The presumption of that shared sense of decency and susceptibility to pangs of guilt, and the unanimous shared sense that those two things are extremely important to the preservation of our lives,

probably account for the frequent shrillness of our public discussions, especially in Massachusetts, and most especially in the *Globe*. As religious and ethnic enforcement of the codes (both good—charity toward the less fortunate—and bad—prejudice toward persons of other faiths) has eroded, even here, New Englanders have begun to worry. A concomitant and undifferentiated zeal has arisen to replace those codes with legislation.

If you examine closely most of the proposals most noisily advanced to expand government influence in private lives in New England, you will find in both the rhetoric of their presentation and the objectives advocated what amounts to a demand to codify in statute a given moral or ethical position. Pro-life agitators seeking new prohibitions of abortion (and ignoring ample historical evidence that the old prohibitions did not prevent the practice) are effectually petitioning the government to enforce a moral viewpoint, and to restore a footnote to the definitions of decency and evil. Gay and lesbian enthusiasts promoting statutory recognition of their life-styles are in substance doing the same thing: demanding that the definition of decency be amended to include their conduct, and the definition of evil be amended to strike it out. The gravamen of arguments by good government groups against large campaign contributions by Political Action Committees (PACs) is that disproportionate influence of beholden politicians is certain to follow from huge donations, and that is secularly immoral. Courts ordering mandatory busing to desegregate the schools, construction of new treatment plants to disinfect the sea, construction of new jails to improve accommodations, vast betterments of institutions where the retarded are housed: all are showing sympathy for arguments to the effect that the conditions protested constitute indecencies. All are dealing with evil as it is perceived by them, and all are seeking decency, as they think it ought to be.

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Taken piecemeal, such agitations are tolerable. Especially, of course, if the auditor happens to subscribe sincerely to one or more of the points of view being marketed as seemly improvements of the official code. But taken wholesale those commotions make an awful din. It is tedious, and endless, and noisy beyond belief. Most of New England, most of the time, is under steady hectoring by some disgruntled bunch or other, bent on its reform.

That's the price we pay for the order we enjoy. Each is the product of virtually constant, nearly unanimous consensus that there is such a thing as a code of proper conduct of people living in communities. The disputes are about the constitutive elements of that code: what the provisions are to be, and who is to enforce them. Nothing more than that.

In 1973, the same Elliot Richardson who as Massachusetts attorney general had taught me something about New England in 1967 taught Richard Nixon and the whole republic from the same basic text. The president of the United States ordered Mr. Richardson, his attorney general, to rid him of Archibald Cox, the troublesome special prosecutor then in hot pursuit of Mr. Nixon's tapes. Mr. Richardson, in a principled act of insubordinate integrity, refused to obey. He had accepted his appointment on the president's undertaking to leave Mr. Cox alone, no matter what he did, and if Mr. Nixon chose to break his word, Mr. Richardson did not. The president fired him.

Returning to Washington soon after Mr. Richardson's behavior in the Saturday Night Massacre had thrilled a woeful nation steeped in seamy Watergate

disclosures, my colleagues and I from New England discerned in the reactions of reporters from elsewhere an element of pleased surprise at what Mr. Richardson had done. Those of us who knew him were in turn surprised by that. Mr. Richardson is from New England. If he had done otherwise, he could not have come back home.

Of course when he did, eleven years later, the ingrates of his party rebuffed his application for the GOP senatorial nomination, awarding it to his opponent, Ray Shamie. But that's another facet of the New England character, a story for another day.

Dismal Science Meets Dismal Subject:

The (Mal)practice of Nuclear Power Economics

Charles Komanoff

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Electric utilities, reactor designers and builders, and the federal government have badly underestimated the costs of new nuclear power plants over the past fifteen years. Although not all of the increases were readily predictable, particularly those caused by rapid general inflation, nuclear advocates failed to foresee most of the sixfold growth in real costs resulting from new reactors' greater complexity, scope, and regulatory surveillance.

This review recounts the methods used by nuclear power proponents to convince policymakers, the public, and themselves that new nuclear plants would be competitive with other energy sources, long after conclusive contrary evidence was available. It shows that the technique of "engineering estimation" relied upon by government and industry officials was singularly unsuited to predicting costs for an immature technology subject to changing regulation and overseen by mediocre management.

Industry conventions against expressing costs in real terms (constant dollars) further disguised the extent of cost escalation and impeded the application of empirical data in predicting future costs. Rigorous statistical examinations showing reactor cost growth far outstripping both overall inflation and coal-fired electricity costs were performed by outside analysts only. Failure to heed such findings has contributed to billions of dollars of excess investment in new nuclear projects, like Seabrook, being built by fifteen New England utilities.

The article concludes with suggestions for improving future estimation of nuclear power costs, and an appeal for institutionalizing countervailing economic assessments of large capital investment projects.

THE ECONOMIC FORTUNES of nuclear power in the United States have steadily worsened over the past fifteen years, going from promising to marginal to calamitous. Among the new generation of U.S. nuclear power plants—the fifty-odd reactors finished, cancelled, or still under construction after 1982—no more than a handful will produce economical electricity. The aggregate monetary damage from the remaining plants may reach \$100 billion,¹ and utility investors, customers, and regulators are already warring over who will bear the costs.

How could such massive waste occur, particularly in a country noted for efficient capital allocation? The answer to this question is complicated; no explanation is uncontroversial. But a careful look at the cost-estimation process of the nuclear industry and the federal government in the 1970s and 1980s will show "systematic confusion of expectation with fact," as one observer has described it, and steadfast denial of adverse cost experience.

The Heart of the Nuclear Cost Predicament: Skyrocketing Capital Costs

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Nuclear power's cost problem in the United States is rooted in the astonishing increase in reactor "capital costs"—construction costs plus related financing costs. Nuclear plants being finished today are costing fifteen to twenty times as much as reactors built in the early seventies: \$3 billion to build a typical thousand-megawatt reactor now, versus \$150 to \$200 million then. The real increase, with inflation factored out, is about sixfold.

As nuclear capital costs began rising in the seventies, predicting them became central to the debate over the economics of building new plants. In this debate, the prime benchmark for nuclear costs was concurrent coal-fired electricity—a pragmatic standard, yet a myopic one. On the one hand, coal-fired plants already produced half of the nation's power, and limits to domestic oil and gas resources made coal the only nonnuclear fuel suitable for new, conventional central-station generating plants. Nuclear/coal comparisons were also simple and familiar to utility planners. On the other hand, by insisting that large, central generators were the only viable means of servicing electricity requirements, the power industry effectively ignored alternatives such as cogeneration, renewables, and improved energy efficiency. Today, after considerable advocacy and development of new analytical tools by environmentalist organizations, the alternatives have moved to center stage in informed electricity policy-making.² But insofar as the nuclear/coal framework dominated the nuclear economics debate over the past decade—the focus of this paper—I adopt it here.

While the comparison of nuclear- and coal-generating costs hinges on capital costs, it must also subsume costs for maintenance, repairs, outages, decommissioning, and fuel, nuclear's strong suit. It is helpful to distill assumptions about these costs into a "break-even" capital-cost ratio, denoting how large a capital cost handicap nuclear plants can offset through fuel savings. Although geographic differences in coal prices imply region-specific break-even ratios, a "national average" break-even ratio is a useful construct. Depending on the analyst's view of cost factors such as the nuclear plant's capacity factor and the coal plant's fuel cost, the break-even capital cost ratio has generally stood between 1.2 and 1.4, meaning that nuclear plants could stand a 20 to 40 percent higher capital cost than coal plants and still end up equal in lifetime generating costs.

The Empirical Evidence

In what became a widely quoted statement, Harvard Business School Professor I. C. Bupp wrote in 1978, "Systematic confusion of expectation with fact, of

hope with reality, has been the most characteristic feature of the entire 30-year effort to develop nuclear power. . . . The distinction between empirically supported fact and expectation was blurred from the beginning in the discussion of nuclear power economics. . . . [W]hat was missing . . . was independent analysis of actual cost experience.”³

Bupp was decrying the failure of nuclear promoters to reconcile their estimates of future plant costs with empirical data, or even to distinguish between the two. This failure persists even today. Only four comprehensive studies of U.S. nuclear capital cost experience have been published. Three, produced independently of the nuclear industry, found that cost trends were running against nuclear power; the fourth, sponsored by nuclear utilities, seemed constructed deliberately to thwart the drawing of any conclusions at all.

The three independent studies measured nuclear and coal capital cost trends from the costs of completed plants. Bupp’s Harvard-M.I.T. team found in 1974–75 that nuclear capital costs had increased two to three times faster than coal plant capital costs between the late 1960s and mid-1970s.⁴ William Mooz of the Rand Corporation demonstrated that the sharp increases in real reactor costs in the first half of the 1970s continued with no letup in the second half.⁵ My work between 1979 and 1981 showed that the average ratio between nuclear and coal capital costs increased from just over 1.0 at the start of the 1970s to over 1.5 at the end of that decade, even counting expensive pollution control devices such as sulfur dioxide scrubbers in the later coal plant costs. I also identified divergent nuclear and coal regulatory trends portending that the capital cost ratio would climb much higher, to a range of 1.75 to 2.65 for plants finished in the mid- to late 1980s.⁶

Empirical data are validating this forecast. The nuclear/coal capital cost ratio for plants built in the 1980s is averaging between 2.0 and 2.5, far beyond the 1.2 to 1.4 break-even range—the capital cost ratio at which nuclear and coal generating costs are equal.⁷

Nuclear power interests haven’t so much rebutted these empirical analyses as ignored them, partly by sending up a smoke screen of studies favorable to nuclear power. These studies have been largely of two types: compilations of current coal and nuclear generating costs, with the sample of plants selected to put the best possible face on nuclear power; and “engineering estimates” that disregarded mounting regulatory and construction problems in forecasting reactor costs. The most influential of these studies are discussed below.

Put Your Best Foot Forward: The Atomic Industrial Forum Surveys

The annual surveys of the U.S. nuclear trade group, the Atomic Industrial Forum (AIF), purport to measure the current cost of electricity from nuclear, coal, and oil plants. Until recently, they obligingly found nuclear-generated electricity to be cheapest. For example, the AIF survey of 1978 costs put the average generating cost—fuel, operations, and capital charges—at 1.5 cents per kilowatt-hour (kwh) for the nation’s nuclear plants and 2.3 cents/kwh for coal plants.⁸ These figures, and similar ones for other years, were disseminated by the AIF, the Edison Electric Institute, and many utilities, and were widely reported by the press.

Two objections were raised to these surveys. First, they obscured emerging cost trends by lumping together economical early reactors with uneconomical later ones. Worse, although the surveys professed to be comprehensive, the samples were badly skewed to favor nuclear power. Twelve of the fourteen most expensive U.S. nuclear plants were omitted from the 1977 and 1978 surveys, as publicity-shy owners of expensive reactors withheld data. In addition, owing to a survey convention that limited the comparison to utilities with *nuclear* plants, only a small fraction of U.S. *coal* plants were included, and these tended to be above average in cost (since utilities build fewer reactors where coal is cheaper).

After considerable criticism,⁹ the AIF broadened its nuclear samples (but not coal). However, in order to elicit cost data for expensive reactors, the surveys stopped grouping costs by utility. This precludes checking individual plant data—an important limitation in light of arithmetic inconsistencies in some AIF surveys and the inherent complexity of much of the cost data. Indeed, the current surveys are mere one-page press handouts, yet the AIF and other nuclear promoters represent them as in-depth evaluations of comparative costs.

Don't Look Back: The Department of Energy Estimates

For all their biases, the AIF surveys have not been nuclear promoters' most insidious misrepresentations of reactor costs. That distinction falls to a fifteen-year series of reports prepared for the Atomic Energy Commission (and its successor, the Department of Energy [DOE]) by Philadelphia-based United Engineers & Constructors (UE&C).¹⁰ These reports have formed the basis of the federal government's pronouncements on the economics of nuclear power since 1968, and they have had a profound influence on U.S. energy policy and utility investments.

The DOE reports rely on a procedure known as *engineering estimation* to predict future nuclear and coal plant costs. This technique first develops a conceptual plant design based on a scope of work that is predicated on an assumed set of safety and environmental requirements. It then calculates the labor, materials, and equipment needed to fulfill the design and applies estimates of wage rates and material costs to compute the total charges. Contingency allowances, typically 10 to 15 percent, are added to cover new safety criteria, strikes, delivery delays, or other problems likely to crop up in big construction projects.

Engineering estimation has failed spectacularly at nuclear plants, however. Since the early 1970s, the inflation-adjusted capital costs of new plants have risen an average of 14 percent each year, consuming *annually* contingency allowances intended to cover a project's *whole construction lifetime*. The root cause has been new and more stringently applied safety requirements that have expanded the scope of projects during construction, together with failure to manage construction to accommodate the increased stringency.

Yet DOE's hindsight has been no better than its foresight. The department has never retrospectively compared its nuclear cost forecasts to actual reactor costs, or otherwise acknowledged the persistent gap between its estimates and reality. Instead, DOE analysts endlessly fine-tuned their elaborate computer model that varied capital costs according to almost every conceivable assumption—geographical location, cooling tower type, turbine configuration, etc.—except for the conditions that were driving reactor costs sky-high: unstable regulatory requirements,

changing designs, and outmatched construction management, conditions well documented elsewhere by DOE's own cost contractor, among others.¹¹ Using this model, for example, DOE estimated in 1977 that reactors completed in 1986 would cost a mere \$1.1 billion per thousand megawatts of capacity—half of what 1985–87 plants are actually costing, after netting out differences between expected and actual interest and inflation rates.

The DOE reports also overstated coal capital costs, contributing further to inaccurate perception of nuclear power's competitiveness. For most of the 1970s, DOE and other nuclear proponents assumed that costs of SO₂ scrubbers and other pollution controls needed at new coal plants would match growing nuclear safety requirements, keeping future coal plant costs close to those of new reactors. In fact, nuclear safety rules proved far costlier than coal emission controls, and the average ratio of completed nuclear to coal capital costs grew from 1.05 in 1971 to 1.5 in 1978, even with scrubbers.

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DOE's most egregious misestimate of relative nuclear/coal capital costs came in 1980, when it doubled its 1978 nuclear and coal cost forecasts. This was appropriate for nuclear plants, which faced regulatory impacts from the 1979 Three Mile Island (TMI) accident, along with record inflation and interest rates. Yet coal plants faced no new regulatory constraints that weren't already reflected in DOE's 1978 forecasts. Although empirical evidence indicated otherwise, nuclear promoters continued to insist that coal's regulatory burden and capital cost escalation were as severe as nuclear power's.

The 1980 report, with an implied *future* ratio of nuclear to coal capital costs no greater than the 1.5 to 1 ratio for plants *completed* in 1978, was especially fateful. Utilities and DOE used it to reassure wavering utility regulators and investors that besieged reactor construction ventures were still worth completing. These reassurances have since proven hollow for investors whose capital is at risk in several dozen expensive reactor projects, and for regulators who are now walking the edge between utility insolvency and sharp rate increases.

DOE's 1982 estimates implied a nuclear/coal capital cost ratio of 1.6 to 1.7, which also lagged far behind changing costs. Yet these estimates remain the basis of DOE's conclusion that nuclear plants ordered in the 1980s and finished in the 1990s will be competitive with coal.¹² In fact, reactors being finished in the 1980s are averaging at least twice the capital costs of new coal plants and will probably average between 70 and 80 percent higher lifetime generating costs.¹³ Nevertheless, DOE's optimistic conclusion is widely cited, particularly in international evaluations of nuclear power, as an authoritative portrait of relative nuclear/coal costs in the United States.¹⁴

DOE's estimator United Engineers, for its part, has begun—a decade late—to back away from its insistence that nuclear power's precipitous capital cost escalation is no different from that for coal. "Recent information on material and labor requirements," admitted UE&C's chief cost estimator in 1982, "indicate[s] that a . . . higher rate of cost increase may be appropriate for nuclear plants."¹⁵

Confusing Time with Costs

Throughout the late seventies and early eighties, while rising costs and the TMI accident were prompting outsiders to look critically at reactor economics, the power industry continued to rehash its engineering estimates of capital costs. These

estimates were divorced from nuclear power's deep-seated regulatory and construction problems and oblivious of the widening nuclear/coal gulf. World-leading reactor constructor Bechtel projected a 1.21 nuclear/coal capital cost ratio just before TMI, increasing only to 1.25 afterward.¹⁶ The Committee on Nuclear and Alternative Energy Systems of the National Academy of Science, a senior nuclear-industry panel cast as impartial "scientists," predicted a range of ratios between 1.0 and 1.25.¹⁷ As recently as 1982, the year the *Wall Street Journal* coined the expression "rate shock" to describe the cost impacts of new nuclear plants, architect-engineer Sargent & Lundy was still forecasting a capital cost ratio under 1.5.¹⁸

Many of these sources seized on shortening reactor construction periods as the means to control costs. Studies by Sargent & Lundy in particular featured painstaking calculations of the potential savings from compressing licensing and construction times.¹⁹ Yet most of these savings are illusory, for they are won by making ratepayers pay for the power plant sooner. The use value of money forfeited by ratepayers offsets the savings from curbing compounding interest during construction, as simple arithmetic demonstrates. At 10 percent interest rates, for example, ratepayers are no better off with a \$3.0 billion reactor finished (and entering rates) today than with a \$3.3 billion plant finished a year from now.²⁰ Yet in power industry parlance, the earlier plant is 10 percent cheaper.

The utility industry's Electric Power Research Institute (EPRI) has also been sidetracked into the construction duration issue. It published a major empirical study of power plant "lead times" in 1983 but has shied away from analyzing empirical plant costs. Its assertion that "time-related costs represent a large fraction of the total capital costs of most large projects"²¹ also shows a failure to appreciate that time-related costs are primarily interest and inflation, which evaporate when the time value of money is considered. (The EPRI study did break with industry dogma to conclude that coal-plant licensing and construction periods were shorter and more predictable than for nuclear plants, however.) In the same spirit, the nuclear industry has all but canonized the St. Lucie 2 reactor for its completion in 1983 in a little over six years, ignoring a number of its slower-built contemporaries with lower real costs. River Bend, also considered successful for its below-average construction time, actually has the industry's fourth largest per kilowatt (kw) real cost.

Lonely at the Top: Commonwealth Edison's Nuclear Program

Chicago-based Commonwealth Edison, the nation's largest reactor operator and builder, is also the industry's most vocal champion of nuclear power. A 1978 Edison article in *Science* touting the roughly 40 percent savings over coal for the company's six large nuclear units helped shore up support for nuclear power in the academic and scientific communities.²² However, the comparison was biased by Edison's excess capacity, which leads it to operate its coal units part-time, thereby inflating their per-unit fixed costs. The remaining savings were also peculiar to Edison, insofar as its nuclear units cost only half as much as the U.S. average (four were built as loss-leaders by General Electric), while the company's coal fuel costs were well above those for most other utilities.²³ The article's cost predictions for Edison's 1980s nuclear units were also strikingly inaccurate, underpredicting their real costs by at least a third.²⁴

The Chameleonlike Dr. Perl

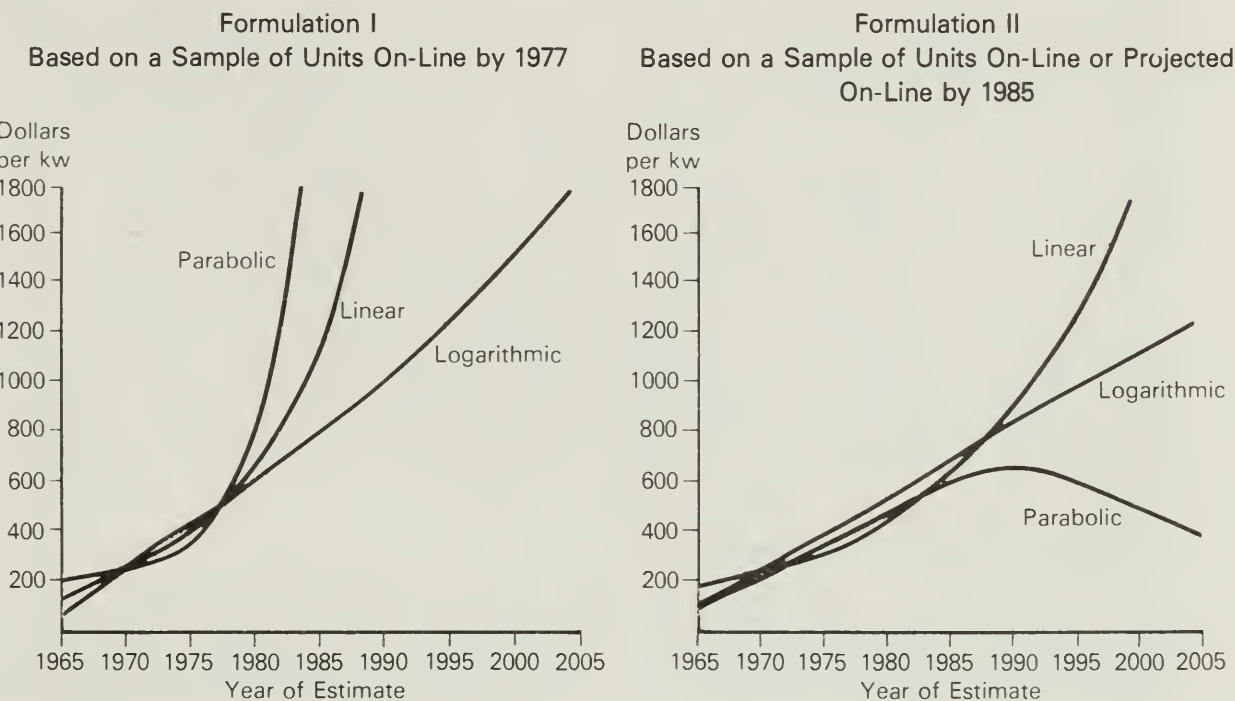
The power industry's only empirical analyses of nuclear and coal capital costs to date have been those by Lewis Perl of National Economic Research Associates (NERA), a leading utility consulting firm. Like Bupp, Mooz, and myself, Perl found in statistical terms that real nuclear capital costs increased rapidly during the seventies. However, Perl rejected extrapolating further increases into the eighties, arguing that the upward slope in historic costs could be read statistically as the temporary growth phase of a cyclical process.²⁵ Instead, Perl put forth a "fall-back" view in 1978 that future nuclear plants (and coal plants as well) would have the same real costs as recently completed plants, implying only a 1.44 nuclear/coal capital cost ratio.

What Perl represented as reasoned conservatism may in fact have been artifice to bolster NERA's many utility clients, whose nuclear construction programs he has defended before numerous state regulatory commissions, both prospectively, in the 1970s, and retrospectively after the programs soured, in the 1980s. For Perl calculated his capital cost trends from a hybrid data base that blended actual costs of plants completed through 1977 with *utility estimates* for plants *under construction* through 1985. It was classic circular reasoning: by introducing utility underestimates of future nuclear costs, Perl diluted the upward trend in completed reactor costs to permit the inference that nuclear cost growth might stop.

Perl couldn't avoid predicting further nuclear cost escalation in the one instance in which he drew trends from completed plant costs only, in a talk to energy economists in early 1978. There, all of his statistical formulations of historical reactor costs pointed unmistakably upward, and much more steeply than the corresponding coal plant curves, as shown in figure 1. This formulation could not have been salutary to NERA's utility clients, and it was subsequently withdrawn.

Figure 1

Nuclear Construction Costs as Estimated by Three Regression Forms Which Vary with Respect to the Treatment of Time (Dr. Perl)



The two graphs show Dr. Perl's formulations of projected nuclear capital costs as presented in a talk to the Eastern Economics Association in April 1978. Formulation I was based on actual costs of plants finished by 1977. The sample for Formulation II included costs for this first group of plants *plus utility estimates of costs for plants under construction*. In both formulations, Perl projected future reactor costs with three different mathematical forms, as shown. Where only empirical data were used, in Formulation I, all three curves point sharply upward, indicating continuing cost increases. In Formulation II, however, all three cost curves, especially the parabolic, were "pulled down" by the utility estimates, enabling Perl to argue that the direction of future nuclear costs was indeterminate. Projecting future data from estimates about the future is clearly untenable, yet Perl has used Formulation II exclusively since late 1978. He has never published the April 1978 paper from which these two figures were drawn.

The New England Experience

New England has been no exception to the nationwide failure to anticipate uncontrolled growth in reactor costs. All six New England states face considerable losses from utility overinvestment in nuclear power.²⁶ In mid-1985, the Millstone 3 and Seabrook 1 nuclear power units were estimated to cost \$4 billion and \$4.5 billion, respectively. That is twice the maximum cost at which the reactors could compete with coal, and still further beyond the cost to break even with cheaper alternatives such as Canadian hydroelectricity, cogeneration, or conservation.²⁷ Another \$1 billion has been expended on Seabrook 2, effectively abandoned in 1984. Full recovery of these costs in rates would cause average electric rates to double for some of the participants and to rise at least 15 percent across New England as a whole.²⁸

The misestimation of costs has been more severe at Seabrook, which was begun several years later than Millstone and until recently lagged behind it considerably in sunk costs, making cancellation more feasible. Greater realism about Seabrook's ultimate cost might have resulted in cancelling it in the early eighties, at a savings of several billion dollars. Yet, as late as 1982, an informed comparison of the Seabrook estimate to other plants indicated that the utilities were underestimating Seabrook's cost by almost half.²⁹ This was not understood by utility regulators and investors—or probably even by the utilities themselves—in part because their comparisons were expressed in "nominal" or "mixed" dollars that grossly overstated the effect of inflation and interest costs for late plants such as Seabrook. Thus, while the 40 percent increase in the Seabrook estimate in late 1982 may have appeared a sufficient correction, it largely reflected inflation and interest for the ten-month schedule delay and included only a fraction of the real increase needed to match the costs of comparable nuclear facilities. The perception that the new estimate was in line with industry experience was a delusion.

An Agenda for Nuclear Economics

Developing more rounds of nuclear capital cost estimates and comparisons would seem pointless, at least until such time—if that time should ever come—that nuclear power's institutional and technical status can be clarified so that cost estimates may

be grounded in reality. Nevertheless, because nuclear power boosters show no inclination to wait,³⁰ the following guidelines for future efforts in nuclear power economics are offered.

First, nuclear and coal costs must be weighed not only against each other but against the full spectrum of available electricity resources. This includes cogeneration, renewables, and improved energy efficiency. Orders for cogeneration and renewable capacity have surpassed those for nuclear and coal since 1982, and gains from improved efficiency, while harder to measure, have almost certainly been greater.³¹ With “whole system costing” methodologies fully established to evaluate these options, utilities can no longer limit their purview to nuclear and coal.

Second, capital cost data must be expressed in constant dollars, with financing costs added separately. The nominal, “as-spent” dollars in which utilities report nuclear and coal plant costs are a mishmash of interest charges, inflation effects, and real costs having *accounting* but not *economic* meaning.³² To distill cost trends or draw meaningful comparisons from such data, analysts must first convert them to constant terms, a task which at present often requires extraordinary effort.

Third, nuclear cost predictions should be benchmarked against empirical data (in constant dollars). While each construction project may appear unique to its builders, insightful statistical analysis of industrywide costs has proven successful at extracting cost trends, which can serve as baselines for evaluating estimates of future costs. This is true for coal as well as nuclear plants. Although coal plant designs have remained far more stable, and their costs more amenable to engineering estimates (owing to lower susceptibility to regulatory changes during construction), estimates of future coal capital costs could be made more accurate by reconciliation with empirical data.

Fourth, rising costs for reactor operations, maintenance, and improvements must be reflected in forecasts of future nuclear “life-cycle” costs. O&M costs and capital additions, as these items are known, have also been affected by increased reactor complexity and regulatory stringency, and have grown almost as fast as reactor capital costs since the early seventies. They now average \$75 million per year for each thousand megawatts of nuclear capacity, or 3 to 4 percent annually of original construction costs for new plants.³³ Realistic assessments of O&M costs and capital additions are particularly important for weighing the economics of completed or nearly completed reactors, for which most capital costs have already been expended. Yet in shameless repetition of previous mistakes, most nuclear advocates dismiss past escalation in O&M costs and capital additions as a product of “one-time events” and a bygone era of regulatory change, and they project future costs at only half of present levels.

Fifth, differences between estimated future costs and recent cost experience—especially projections that future reactors will cost much less than those just finished—must be fully justified. In particular, expectations that reduced “regulatory turbulence” will cut reactor costs must be fleshed out with analyses of the nature and cost of regulatory impacts. This will require separating the effects of more stringent regulatory criteria from the effects of *changes* in the criteria—a distinction missing in most discussions to date.

The same applies to cost savings that nuclear advocates ascribe to new technologies and standardized designs. Increased use of microprocessors and robotics, and reductions in custom engineering, could conceivably mitigate problems in

nuclear (and coal) design, construction, and operation in such areas as accident analysis, regulatory evaluation, quality documentation, hazardous repair, and so on. But hand-waving is not an acceptable way to estimate the savings, especially given nuclear power's long trail of engineering misestimates. The nuclear industry will win a hearing on its hopes for competitive future reactors only by acknowledging the appalling level of current costs, and explaining why its future will differ from its past.

Lessons Learned

What lessons can we learn from the failure of nuclear promoters to represent nuclear costs competently and candidly?

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One lesson is that powerful institutions cannot be relied upon to act in their own economic self-interest, let alone in the public interest. In the case considered here—nuclear cost escalation—industry leaders and government planners failed to fully grasp either causes or extent. They excessively blamed the general economic conditions of high inflation and interest rates and overlooked the real increases driven by nuclear-specific problems, namely the safety controversy and technical deficiencies. Nuclear interests insisted that nuclear and coal cost behavior were the same, when in fact nuclear costs were rising at least twice as fast. Examination of actual cost trends might have led utilities to curb nuclear expansion earlier, with savings of tens of billions of dollars. Instead, a pronuclear mind-set blinded promoters to the warning signs, and nuclear power became a victim of its own propaganda.

Another lesson concerns the failure of public or quasi-public institutions to scrutinize the promoters' self-serving estimates and underlying assumptions. Not Congress or its watchdog agencies, not the state utility regulators, not the credit-rating agencies, not the think tanks or universities (with the exception of Mooz at Rand and Bupp's group at Harvard) punctured the industry-government unanimity on nuclear/coal costs until recently. To a disturbing extent, these groups merely repackaged DOE or industry cost estimates, lending them a spurious aura of scholarship. For example, the seemingly authoritative (and favorable to nuclear power) economic evaluation in the 1977 "Nuclear Power Issues and Choices" report by a group of academics convened by the Ford Foundation rested on industry and government engineering estimates;³⁴ the estimators later cited the report as confirmation of their figures. Much of what appeared as a broad, independently won consensus on nuclear power's cost edge was created with mirrors.

The failure of coal interests to attack nuclear overoptimism is particularly noteworthy, insofar as the two sectors compete for the same electricity market. Unfortunately, overlap among coal and nuclear constructors and vendors, and their common stance as champions of centralized electric generation and opponents of environmental and safety regulation, militated against serious criticism. Indeed, the coal industry used nuclear promoters' exaggerated forecasts of coal pollution control costs to lobby against stringent emission standards. Only after new standards were settled on in 1978 did the coal industry begin distancing itself from those forecasts.

The final lesson, following from the first two, is the need for independent analysis of the economic and societal consequences of major public investments.

The need is hardly confined to nuclear power (a parallel story to this could be told about the utility industry's failings in forecasting electricity usage) or to energy issues. The momentum generated in large undertakings all too easily breeds intolerance of dissenting views, precisely when they may be most needed to correct the enterprise, or to determine whether it is worth pursuing at all. If the unfortunate nuclear power experience helps to institutionalize dissenting views elsewhere, then perhaps the losses will have served a constructive purpose.

Notes

1. This figure comprises \$25 billion invested in plants cancelled through 1984; possible future cancellations with \$10 to \$20 billion already invested; and the \$50 billion or more prospective difference between lifetime power costs of reactors being completed and of alternative coal units with advanced emission controls. For more detail, see C. Komanoff, "Where Does Prudence Stop and Waste Begin? U.S. Nuclear Plant Costs in the 1980s," paper presented to the National Association of State Utility Consumer Advocates, 13 August 1984, at Williams College (available from Komanoff Energy Associates, New York).
2. Advocacy of alternative electricity planning has been led for a decade by Amory Lovins (formerly with Friends of the Earth, now with Rocky Mountain Institute, Old Snowmass, Colo.), Natural Resources Defense Council (San Francisco), and Environmental Defense Fund (Berkeley, Calif.). Lovins's *Soft Energy Paths* (Cambridge, Mass.: Ballinger Publishing Co., 1977) was particularly seminal.
3. Irvin C. Bupp and Jean-Claude Derian, *The Failed Promise of Nuclear Power* (New York: Basic Books, 1981), originally published in 1978 as *Light Water: How the Nuclear Dream Dissolved*. The quotes are from pages 188, 47, and 76, respectively.
4. Irvin C. Bupp et al., *Trends in Light Water Reactor Capital Costs in the United States: Causes and Consequences*, CAP 74-8 (Center for Policy Alternatives, M.I.T., Cambridge, Mass., 1974). Abridged in *Technology Review* 77, no. 2 (February 1975): 15-25.
5. William Mooz, *Cost Analysis of Light Water Reactor Power Plants*, R-2304-DOE (1978), and *A Second Cost Analysis of Light Water Reactor Power Plants*, R-2504-RC (1979) (Santa Monica, Calif.: Rand Corporation).
6. Charles Komanoff, *Power Plant Cost Escalation: Nuclear and Coal Capital Costs, Regulation, and Economics* (New York: Komanoff Energy Associates, 1981; republished by Van Nostrand Reinhold, New York, 1982). The statistical findings therein were first circulated in draft form in mid-1978.
7. Comprehensive utility data compiled by Komanoff Energy Associates in mid-1985 indicate construction costs (exclusive of financing) averaging \$2250/kw in 1984 dollars for nuclear plants completed or still in construction after 1982, versus approximately \$1000/kw for contemporaneous coal plants. Addition of real financing costs would widen the ratio on account of the longer construction durations and higher costs of capital for nuclear units. Data from a year earlier are summarized in Komanoff, "Assessing the High Costs of New U.S. Nuclear Power Plants," *Public Utilities Fortnightly* 114, no. 8 (October 11, 1984): 33-38.
8. Atomic Industrial Forum, *Annual Generating Cost Surveys*, published as annual news releases since the mid-1970s (Bethesda, Md.).
9. Charles Komanoff, *Power Propaganda* (Washington, D.C.: Environmental Action Foundation, 1980).
10. A typical report in the series is U.S. Atomic Energy Commission, *Power Plant Capital Costs: Current Trends and Sensitivity to Economic Parameters*, WASH-1345 (Washington, D.C., 1974). A listing of most of the AEC/DOE reports is in J. H. Crowley and J. D. Griffith, "U.S. Construction Cost Rise Threatens Nuclear Option," *Nuclear Engineering International* (June 1982): 25-28, fig. 2.

11. Ironically, testimony by United Engineers' own manager of capital cost estimation in a New York State Public Service Commission investigation of comparative nuclear and coal costs in 1976 was probably the most articulate statement to that time of the effects of safety-related requirements on nuclear capital costs (J. H. Crowley, direct testimony, Case 26974). Several exhibits in the testimony depicting nuclear power's regulatory burden were reproduced widely, including one charting the rapid growth in reactor safety standards, and another using hypothetical design criteria for a reactor light switch to illustrate the maze of regulations that nuclear designers must negotiate. The testimony also warned, prophetically, that "the regulatory climate is still dynamic . . . the full effect of [regulatory] factors is not predictable, and the current cost estimates and schedule must be qualified as reflecting those criteria in effect as of the end of 1975, with no additional regulatory changes or delays" (p. 31). UE&C's work for the AEC and DOE contained no such explicit warnings, however.
12. Energy Information Administration, *Projected Costs of Electricity from Nuclear and Coal-Fired Power Plants*, DOE/EIA-0356/1 and 2 (Washington, D.C., 1982).
13. See notes 1 and 7.
14. Organization for Economic Cooperation and Development (OECD), *Costs of Generating Electricity in Nuclear and Coal-Fired Power Stations*, ISBN 92-64-12514-0 (Washington, D.C., 1983).
15. Crowley and Griffith, "U.S. Construction Cost Rise Threatens Nuclear Option."
16. W. K. Davis and R. O. Sandberg, *Light Water Reactors: Economics and Prospects* (San Francisco: Bechtel Power Corp., February 1979). Davis, Testimony before the U.K. House of Commons Select Committee on Energy, June 1980.
17. National Academy of Sciences, *Energy in Transition, 1985-2010* (Washington, D.C., 1979), 318.
18. W. W. Brandfon, "The Economics of Nuclear Power," paper presented to the American Ceramic Society, Cincinnati, 4 May 1982; reprinted by the Atomic Industrial Forum (Bethesda, Md., 1982).
19. W. W. Brandfon, *A Comparison of Future Costs of Nuclear and Coal-Fired Electricity* (Bethesda, Md.: Atomic Industrial Forum, November 1984).
20. Affidavit of Charles Komanoff, 23 March 1985, *Supporting Emergency Motion for Stay re Waterford Operating License*, available from Government Accountability Project (Washington, D.C.).
21. Electric Power Research Institute, *An Analysis of Power Plant Construction Lead Times*, vol. 1, EPRI EA-2880 (Palo Alto, Calif., February 1983).
22. A. D. Rossin and T. A. Rieck, "Economics of Nuclear Power," *Science* 201 (August 18, 1978): 582-89.
23. Commonwealth Edison's average delivered cost of coal in 1980, for example, was \$1.90 per million Btu, 41 percent above the U.S. average of \$1.35. See Energy Information Administration, *Cost and Quality of Fuels for Electric Utility Plants*, DOE/EIA-0191(80), tables 3 and 56.
24. Edison estimated in *Science* that twin 1200-MW reactors would cost \$692/kw in 1977 dollars, or \$1105/kw in 1984 dollars. This figure included interest, although whether in nominal or constant dollars is unclear. Assuming that interest accounted for 20 percent of the estimate in the article—an arbitrary and possibly low guess—the estimate is equivalent to \$884/kw in 1984 dollars without interest. Based on Edison's early 1985 estimates, the company's six 1980s nuclear units will cost an average of \$1355/kw in 1984 dollars without interest. My own estimate is somewhat higher. (See Rebuttal Testimony of Charles Komanoff, 20 June 1985, Illinois Commerce Commission, Docket No. 82-0855, available from Business and Professional People for the Public Interest, Chicago).
25. Lewis J. Perl, "Estimated Costs of Coal and Nuclear Generation," paper presented at a seminar sponsored by the New York Society of Security Analysts, 12 December 1978 (New York: National Economic Research Associates).
26. Irvin C. Bupp, "Seabrook: A Case Study in Mismanagement," *New England Journal of Public Policy* (Winter/Spring 1985): 60-71.

27. Prospective buyers for shares of Seabrook 1 during the first half of 1985 bid approximately \$1,000/kw of capacity, equivalent to slightly over \$1 billion for the entire unit. If a market had been opened for Millstone 3, bids of \$1500/kw could have been expected, reflecting the greater likelihood of completion and the greater nuclear experience of Millstone's utility owner.
28. See Charles Komanoff, "Pitfalls in Long-Term Electricity Load Forecasting," outline of paper presented to New England Conference of Public Utilities Commissioners, 14 May 1985, at Newport, Rhode Island.
29. My statistical comparison of Westinghouse-design reactors in the U.S. indicated that the Seabrook estimate was 46 percent "below costs predicted on the basis of prevailing trends," making the estimate "unaccountably low" and "suspect." See Komanoff, "The Westinghouse PWR in the United States, Cost and Performance History," 1982, page 6n.
30. See note 19, for example.
31. Christopher Flavin, *Electricity's Future: The Shift to Efficiency and Small-Scale Power* (Washington, D.C.: Worldwatch Institute, Worldwatch Paper 61, 1984).
32. See note 7.
33. Pioneering work in nuclear O&M and capital additions costs by Energy Systems Research Group (Boston) is described in any recent ESRG testimony on nuclear matters.
34. S. M. Keeny, *Nuclear Power Issues and Choices: Report of the Nuclear Energy Policy Study Group* (Cambridge, Mass.: Ballinger Publishing Co., 1977). While the report cited my 1976 estimates of capital costs, those were developed prior to my original capital cost research and were simply derived from DOE estimates.

Teaching—From Occupation to Profession:

The Sine Qua Non of Educational Reform

Bernard R. Gifford

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Many problems have been blamed for the crisis in public education. This article argues that the teaching occupation as it currently exists is one problem whose solution promises to yield significant consequences in terms of pupil learning. That solution, according to the author, is to restructure the teaching occupation to bring about a greater appreciation of and respect for teaching as a high-level activity that supports self-evaluative behavior—a professional consciousness that encourages teachers to see themselves as evolving practitioners capable of learning from errors, rather than as nonreflective paraprofessionals armed with a set of error-proof teaching methods applicable to all instructional settings.

NEARLY TWO AND ONE-HALF YEARS AGO, the National Commission on Excellence in Education issued its landmark report, *A Nation at Risk: The Imperative for Educational Reform*. One unique feature of the report was its stylistic pugnaciousness. In contrast to most governmental reports, wherein recommendations are couched in euphemisms, circumlocutions, double-talk, and evasions, *A Nation at Risk* was straightforward and in some places even abrasive, rubbing raw the sores of public discontent with the schools. The report warned the country that “the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people.”¹ And, to make sure its message would be received in the spirit in which it was sent, the commission underscored its dire findings with the observation that “if an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war.”² *A Nation at Risk* was quickly followed by a plethora of studies and reports elaborating on the themes of crisis and collapse in the nation’s public elementary and secondary schools.³ Many of them, mainly those sponsored by governmental or quasi-governmental agencies, echoed both the alarmist style and the content of *A Nation at Risk*.

The din has quieted now at the national level at least, but the debate over educational reform has not ended; in a certain sense, it has just begun. At the state and local levels, the commissions, panels, task forces, and study groups that have been established to probe state and local schools and to propose initiatives for reform

defy enumeration. Unlike any of the national groups that surveyed the nation's schools, many of these state and local groups bear some measure of direct responsibility for educational policy-making and management. Thus, much of the post-*Nation at Risk* deliberation has been directed away from the large policy issues, toward the nuts and bolts of identifying appropriate policies for change in the nation's classrooms, and the resources to make the change occur.

It is still much too early to conduct a definitive analysis of the impact that *A Nation at Risk* and its successors have had on education at the state and local levels. Final judgment will have to await more systematic studies on the effect of specific efforts to improve student learning and achievement.⁴ However, it is not too soon to conclude that the writing of *A Nation at Risk* was a landmark event which caused a major shift in the polity's attitude: survey data and other indices of public opinion clearly demonstrate that the report and its successors vastly increased public awareness of the difficulties troubling the nation's schools.⁵ This heightened awareness resulted in education's being pushed close to the top of the national political agenda during the presidential campaign of 1984—a position that it had not enjoyed since the late fifties and early sixties. Besides stimulating the most active national debate about the purposes, goals, and objectives of public education since the period following the launching of Sputnik, *A Nation at Risk* also succeeded in stimulating the public education community—particularly the teaching profession—to engage in intense introspection and discussion about the conditions of schooling and teaching in America.⁶ For the first time in nearly twenty years, the higher education community, in a series of major studies, articulated its relationship to elementary and secondary education, as well as its obligation to alter the status quo.⁷

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Problem Identification, Solution Formulation, and Policy Development

From the perspective of the policy analyst on which this article is based, it is too soon to pass judgment on the success of the educational reform movement. For one thing, it is simply too early to make correlations between the new policy initiatives and any possible consequences for education. In addition, most of the reformist reports fall short as templates for new policy initiatives. Although they captured the attention of the public in their descriptions of the unacceptable conditions in public education, the reports failed, by and large, to make the transition from macroanalysis to microanalysis; they delineated the larger obstacles impeding the schools' capacity to serve all of their pupils effectively and efficiently, but they did not focus on specific problems that require the application of specific policy initiatives for their solution.

Unacceptable Conditions and Solvable Problems

In nearly all of the reports, including *A Nation at Risk*, an implicit connection is drawn between conditions that are unacceptable and problems that need to be solved through the application of new policy initiatives. The trouble with this approach is that in reality the connection between condition and problem is rarely as neat as it is made to appear. In order for a general complaint to be transformed into a specific problem for which there is an acceptable solution offering some

promise of a permanent cure, the implicit must be made explicit. Consider the following exposition from Lindblom and Cohen, which makes this very point:

Suppose we begin, as an exercise in defining a problem, with the familiar "Why Johnny can't read." To specify the problem more precisely, someone will suggest that the problem is one of reading difficulties among certain urban ethnic groups. But then it will be said that the problem is one of inadequate family incomes for these groups. And to that it will be responded that income itself is not the problem; the problem is basically a deficiency in the family's ability to implant an incentive to learn to read in children. Hence the problem becomes that of the inadequacy of the urban ethnic family as a social institution—an institution that is failing to perform its required functions. That may provoke the suggestion that the problem is one of defective socioeconomic organization; socioeconomic institutions do not integrate these families into normal social functioning. But perhaps, then, the problem is one of faulty political organization in the society at large, since presumably the right kind of political decision could remedy the faults of the economy, the structure of urban society, and the place of the family in it.

At this point someone is also certain to suggest that politics is not an independent influence on economy and society, being itself dependent upon them. It might then be proposed that the problem is one big interlocked problem of social organization—to which formulation one may or may not add some further problem specification, such as that the phenomena of social class are the "real" problem. But problem definition at this level can perhaps be counted on to produce another abstract formulation. Any big interlocked problem of social organization, it will be suggested, can only be understood as a product of history and culture. The problem, then, is a fundamental one of a historically produced culture that is inadequate. From which it seems only a small step to the conclusion: the world is not what it should be. That is the problem.⁸

As the preceding discourse makes clear, problem definition is not an easy task in the face of the temptation to account for all possible causative factors responsible for producing a particular condition. Problem definition necessitates that allowances be made for resource constraints, prevailing values, political interest, and organization configurations. A solution that requires the would-be problem solver to rearrange radically the entire political constellation is not much of a solution.

Looking for the Problem

In making the point that solutions and problems need to be coupled, we are not arguing that a solution is viable only if it results in cessation of the problem. Problems are rarely, if ever, completely solved. When we refer to problem identification and solution formulation, we are talking about processes that stand a chance of producing outcomes which, measured by some objective standard, will improve existing conditions. In the "real" world, dealing with a succession of problems may be the best we can expect, given our inability to remedy a multitude of factors simultaneously. For example, it is highly unlikely that we will be able in the near future to teach all of the Johnnys attending central city schools to read at grade level; our current knowledge about the comparative efficacy of various methods of teaching reading to pupils attending these schools is limited,

and existing socioeconomic conditions attenuate the impact of even the most effective formal classroom instruction methods. What is more likely is that under the proper circumstances, schools can make a better match between teaching approaches and students' learning styles, thereby increasing the proportion of students who can read at or above grade level. This solution, although difficult to achieve, is not beyond reach.

Problem definition, in this view, is a framework for doers—problem solvers, managers, policymakers, and policy analysts—to confront the reality they are seeking to change but not necessarily to understand. Thus, mental frameworks that help us to make sense of reality may not suffice. We also require a frame of reference which will aid us in making sense of our own actions, past and future. In other words, problem definition is a framework within which certain interventions are considered—and indeed defined—as solutions. Without this framework the same actions would make no sense.⁹

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If what we have described as problem identification and solution formulation is necessary to the process of school reform, then our earlier observation about the limited utility of increased public awareness must be taken very seriously, for this awareness is only the first, albeit crucial, step in school reform; unless it leads to a definition of problems that stand some chance of amelioration, and unless proposed remedies prove feasible, life in the nation's classrooms and schools will go on unaltered and unacceptable—as if nothing had happened. Without accurate problem identification, solutions in the form of new policies will produce no improvements. In some instances, conditions may actually be worsened. If awareness produces nothing more than public excitement, and if the process of appropriate problem identification and solution formulation never gets under way, there is a real danger that the public will demand policymakers to “do something” before it is clear what needs to be done. When policymakers feel pressured to do something, they often make inappropriate or meaningless gestures—what Edelman describes as symbolic behavior¹⁰—aimed at dissipating the pressure itself. The outcome of this situation is not problem identification but problem proliferation, problem diversion, and policy gridlock. A good example of this symbolic behavior is the call made by both policymakers and reformists for longer school days and extended school years. The apparent theory behind these suggestions is that more is better, but in reality, more of the same may well make things worse.

The Problem with Education

Many “problems” have been blamed for the crisis in public education, including school days that are too short, curricula that are intellectually truncated, teacher expectations that are too low, funding that must be stretched too far, poor instructional leadership at the school site level, too little homework, too few objective, content-sensitive tests, the changing composition of the family structure, a general decline in moral standards, a failure to articulate moral standards, conflicting educational objectives, insufficient public input, inferior performance auditing and monitoring procedures, and many, many others. The number of proposed solutions has been even greater than the number of problems. It is the contention here, however, that many of these so-called problems are really descriptions of unacceptable conditions, and that even where the word *problem* is

used accurately, the solutions that are proposed frequently will not have much of an impact on student learning.

One problem exists, however, whose solution promises to yield significant consequences in terms of pupil learning. It has the added virtue of being comprehensive enough to test the political and intellectual skills of the most ardent reformer. The problem lies in the teaching occupation as it currently exists, and the solution to the problem is to restructure the teaching occupation. This proposition will form the core of the remainder of this article.

Suggested Policies and Predicted Progress: The Weak Condition

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Nearly all of the myriad proposals for educational reform offered in the wake of *A Nation at Risk* call for actions that will enhance the attractiveness and status of the teaching occupation. For example, the National Commission on Excellence in Education "found that

not enough of the academically able students are being attracted to teaching; that teacher preparation programs need substantial improvement; that the professional working life of teachers is on the whole unacceptable; and that a serious shortage of teachers exists in key fields.¹¹

The commission recommended that the following solutions be implemented:

Salaries for the teaching profession should be increased and should be professionally competitive, market-sensitive, and performance-based. Salary, promotion, tenure, and retention decisions should be tied to an effective evaluation system that includes peer review so that superior teachers can be rewarded, average ones encouraged, and poor ones either improved or terminated.¹²

In his seminal study, *A Place Called School*, John Goodlad summarized a decade of classroom observations in this way:

In general the practicing teacher—to the degree we can generalize from our findings—functions in a context where the beliefs and expectations are those of a profession but where the realities tend to constrain, likening actual practice more to a trade. It undoubtedly is too late to turn back the clock with respect to embellishing teaching with the trappings of a profession. But a question arises as to whether the circumstances of teaching can be made conducive to developing in all teachers the behavior a profession entails. By its nature a profession involves both considerable autonomy in decision making and knowledge and skills developed before entry and honed in practice.¹³

In *High School*, Ernest Boyer, the president of the Carnegie Foundation for the Advancement of Teaching, commented:

Surveys reveal that teachers are deeply troubled, not only about salaries, but also about their loss of status, the bureaucratic pressures, a negative public image, the lack of recognition and rewards. To talk about recruiting better students into teaching without first examining the current circumstances that discourage teachers is simply a diversion. The push for excellence in education must begin by confronting those conditions that drive good teachers from the classroom in the first place.¹⁴

In *Horace's Compromise*, TheodoreSizer, former dean of the Harvard Graduate School of Education and director of the National Association of Secondary School Principals' High School Study Group, observed:

It will require an unprecedented leap of faith for Americans to trust their teachers. They never have, not very much. Furthermore, the current public mood is punitive, albeit with some justification. Much teaching in high schools is abysmal. While some of this clearly is due to teachers' incompetence, insensitivity, and carelessness, some also flows from the conditions of the work—giving rise to Horace's compromise—and the demeaning attitudes, and the policies that flow from them, with which the public treats the profession. America and its teachers are in a cul-de-sac of attitudes and practice. Reversing direction will therefore be difficult.¹⁵

The aggregate portrait of the teaching occupation is a collage of contradictions that engenders conflicting thoughts about which steps ought to be taken to ameliorate the circumstances of teachers and teaching. But contradiction and teaching are virtually synonymous. Similar observations simultaneously demonstrating adulation and neglect, reverence and scorn, have been made about the status of education as an idea and as an ongoing enterprise by countless commentators and critics of American education for at least a century.¹⁶ What the comments of Goodlad, Boyer, andSizer reveal is how little views of teaching and teachers have changed over time. The teacher, generally acknowledged to be strategically and pedagogically the most important factor in formal learning, has traditionally been allotted little authority or latitude in planning, decision making, and evaluation. The teacher has long occupied the bottom link of a lengthy chain of command stretching from executive mansions and state legislative chambers down to commissions and state boards of education, further down to local school boards and district superintendents' offices, then from this complex control structure to principals in individual schools, and, finally, to the teacher in the classroom.

Although widespread consensus exists on the need to change the status quo, the outlook for enduring reform in American education is not encouraging. The resistance to change that has been built up as the result of habit, public opinion, and long-standing institutional arrangements will not be easy to reverse. Take, for instance, the issue of making the profession of teaching more attractive to the more academically able, new college graduates. Nearly every report calling for reform argues that it is this change, above all others, upon whose shoulders rests the long-range possibility of significant and enduring educational improvement. At the same time, nearly every reformist agenda observes that this key policy objective will not be achieved unless steps are taken to dramatically increase teacher salaries, especially those of new teachers. The difficulty of transposing this observation into a policy objective is symptomatic of the obstacles facing the school reform movement.

Teacher Salary Increases: Doing Better and Feeling Worse

One of the major reasons for the difficulty of using salary to increase the relative attractiveness of teaching to the more academically able college graduates is that the cohort of new graduates is shrinking, a fact that is driving up the relative wage rates that all sectors of the economy must pay for college-educated workers

newly entering the labor market.¹⁷ In regions of the country, such as New England, where this shrinkage is complemented by a robust economy,¹⁸ the difficulty of increasing the attractiveness of teaching by increasing salaries is compounded. The situation is even worse in parts of the country where the demand for new teachers is accelerating, owing to (1) the retirement of the cohort of career teachers who started teaching after World War II, (2) the baby boom echo, which is sharply pushing up elementary school enrollments, following a long period of enrollment decline, and (3) the adoption by local school districts of new coursework requirements for promotion and graduation. Here again, New England is a case in point. The opening up of the employment market to talented female and minority college graduates—two groups that in the past were disproportionately channeled into teaching on account of discrimination in other professions—further increases the difficulty of attracting more and better talent to teaching.

In states and school districts where the potential teacher applicant pool is shrinking and the demand for teachers is accelerating, even larger than normal across-the-board salary increases for new teachers might fail to increase the attractiveness of teaching vis-à-vis other occupations that require similar educational and skill levels. Given a robust economy and the changing economic and social demography of the labor market for all groups of young, educated workers, larger than normal salary increases for prospective teachers may be required just to maintain the status quo in the current wage gap between teachers and similarly educated workers in comparable occupations. Situations in which new policy initiatives produce real improvement (teacher salaries go up) and the intended beneficiaries of the new policies (prospective new teachers) end up feeling that conditions have gotten worse are not at all uncommon in the sphere of public policy.

Raising Standards and Lowering Morale

Another area in which a policy initiative could end up producing unanticipated results is that of educational standards. In response to findings that the intellectual integrity of the public school curriculum has been seriously compromised—allegedly as the result of a prolonged falloff in educational standards, teacher expectations, and student effort—more and more state education departments have implemented rigorous curriculum monitoring and evaluation programs. In some states, including California, Florida, and Texas, these efforts have produced volumes of detailed curriculum guidelines and copious suggestions for their utilization. An increasing number of these curriculum improvement programs rely heavily on the use of state-selected standardized achievement examinations for the purpose of assessing compliance and pupil progress. In California, a report card for every high school in the state is now issued annually by the state superintendent of instruction; a ranking is provided and areas in need of improvement are spelled out in great detail. Further, supplementary appropriations are allocated to high schools on the basis of how well their students perform on state-designed standardized achievement examinations.¹⁹ Adoption of the California model is now being discussed and debated in at least fifteen other states.

At the classroom level, the new emphasis on educational standards is manifesting itself, as it must, in reduced teacher discretion and autonomy in the selection of textbook and instructional materials, less control over teaching methods, and greater constraints on the distribution of instructional time. More and more

teachers are responding to pressures to align their instructional objectives with state guidelines. Where there is resistance, principals and other instructional administrators, responding to pressures to demonstrate instructional leadership abilities, are there to make sure that the classroom teacher has gotten the message and will toe the new party line on curriculum. The process of trimming and accommodating commitment, creativity, and imagination at the expense of individual initiative is bound to affect the more gifted and talented teacher and teacher trainee. Here is one veteran teacher's reaction to these new developments:

No one intimately involved in a classroom [can fail] to appreciate the subtle interplays, the minute changes that take place among people in that setting—and, when things go very well, between a student and a text or an idea. So, when we are told to get ready for the lessons-by-appointment that are arranged every six months and duly noted in our personnel files, we go for the grand slam. Most of us can do this on schedule . . . but lessons-by-appointment don't reveal tiddly-pom about our real strengths and weaknesses over the 180-day season. It always amazed me that students ham such lessons as much as their teachers, cooperating in the production of show-and-tell tinsel for the benefit of visiting administrators. For 50 minutes twice a year, we all pretend that school is what everybody outside the classroom claims it should be. No student even asks to go to the bathroom.²⁰

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It is difficult to imagine how this reduced autonomy and increased role playing will attract more able, and one would surmise, more imaginative and creative college graduates to the teaching profession. It is especially ironic that these changes in the circumstances of teaching are taking place at a time when the nation's private sector is deep into debate about the continued effectiveness of managerial systems which presuppose that worker productivity and worker discretion are mutually incompatible.²¹

More Accountability and Less Substance

In all fairness to those who have advocated the imposition of stronger control systems for educational standards, it must be said that the new emphasis on standards-setting, monitoring, and evaluation is not entirely unwarranted. At least in theory, greater central control over educational standards permits central administrative authorities to reduce the pernicious impact of high teacher turnover, always a chronic problem, and doubly so during periods when the demand for young, college-educated workers is high, as it is expected to be for the next decade. Also, in cases where schools are compelled to employ marginally competent teachers or are forced to assign teachers instructional responsibilities outside their areas of academic competence—a phenomenon that is becoming increasingly routine in high school mathematics, science, English, and history courses—better defined and better articulated curriculum standards could prove to be a powerful antidote to mediocrity. This, of course, presupposes that curriculum guidelines are buttressed by well-conceived and well-written textbooks, and supplemented by stimulating materials beyond the textbook. This is a large assumption. As Harriet Bernstein, director of the Project on Textbooks (sponsored jointly by the Council of Chief State School Officers and the National Association of State Boards of Education) notes:

The writing in most textbooks, particularly in elementary textbooks, is choppy and stilted. The lion's share of the blame for such writing is heaped on the

states and cities that have mandated the use of readability formulas to determine the level of difficulty of text. As more and more jurisdictions have required that textbooks meet specific grade-level readability scores, publishers have been impelled to write or adapt their texts according to the formulas. Paradoxically, the effect of the formulas has been to make the prose harder rather than easier to understand. . . .

Researchers have also found that textbooks in nearly every category tackle too many subjects and cover them so superficially that students have difficulty understanding what is being said. Books flit from topic to topic; chapters wander between the truly important and the trivial; even paragraphs can be jumbled and lacking in evident focus. Researchers call this "mentioning," and the primary cause of the problem seems to be educators themselves. In most jurisdictions, adoption authorities have required textbooks to cover all topics in a course. Publishers have tried to accommodate the lists of required topics from several major adoption states in order to sell to as large a market as possible. The result is magazine-style books—filled with tidbits but lacking context, adequate explanation, or clarifying examples.²²

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Why More Education May Yield Less-Educated Teachers

If the connection between educational improvement, on the one hand, and new policy initiatives that would increase teacher salaries and raise education standards, on the other hand, is weaker than commonly imagined, the link between another frequently proposed reform initiative and school improvement may be even more feeble. The call for an immediate upgrading of the quality of the teaching corps through the imposition of rigorous academic prerequisites for prospective teachers falls into this class of questionable policy initiatives. On the surface, the need for this reform seems unassailable. And it is. However, a second, unanticipated facet of this recommendation gives cause for concern. From a policy perspective, strengthening the academic prerequisites for entry into educational studies programs would make sense only if those who entered teaching sans currently acceptable courses of academic and professional preparation were less academically able than those who entered the teacher occupation through more orthodox channels. The evidence suggests the contrary. As Dan C. Lortie²³ and others have repeatedly pointed out, students who make an early decision to pursue the teaching profession (*vertical recruits*) are usually less academically able than students who decide to go into teaching later on in their academic lives (*lateral recruits*).

The policy implications of this unpleasant state of affairs are obvious. Unless some means are uncovered for activating a lateral interest in teaching among prospective teachers currently in the lateral recruit pool, policies constricting lateral entry into teaching would result in counterproductive consequences. Put another way, if all other factors affecting the attractiveness of teaching as a profession remain unchanged, raising the academic requirements for entry into education studies programs may not only fail to woo increased numbers of more academically able students into teaching, but may also prevent a large fraction of highly motivated (although academically marginal) students from entering teaching. Were this outcome to be realized, the teaching corps would become even more bereft of academic talent than it is now, since school districts would be compelled

to dig deeper into the pool of unemployed (and otherwise unemployable?) college graduates who have traditionally served in the reserve army of would-be substitute teachers. The more districts are forced to reach down into this pool, the greater will be the number of untrained and unmotivated teachers who will end up teaching the nation's youth.

Even if a mechanism were developed which would activate early entry into rigorous educational studies programs for students now falling into the lateral recruit category, it is not clear that this reform would endure in the absence of other changes in the circumstances of teaching. If longer periods of formal study should differentially benefit those who are more intellectually able, who are inquisitive and self-sufficient intellects, who are eager to inform their modes of practice with insights from research and with intelligence gleaned from careful study of exemplary techniques and approaches, the gap between the least competent and the most able teacher could actually widen. In turn, the widening competency gap could eventually drive out the better teachers.

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Teaching: The Flat and Ineffective Occupation

The competency gap unavoidable in any occupation presents a unique dilemma in teaching, because teaching is a "flat" occupation in at least three dimensions. First, with respect to workload assignments, all teachers, regardless of experience and past achievements, are treated pretty much alike, with one notable exception. Contrary to the mode of operation in nearly every other occupation, new teachers are more likely to be assigned to classes with the greatest number of problem students! Further, new teachers are not given reduced teaching loads and are not instructed to work with more experienced practitioners. In most occupations that require long periods of prepractice education and training, a period of "apprenticeship" is standard. Not surprisingly, for many beginning teachers, the first year of classroom duty is exhausting, punitive, and emotionally upsetting. Few guidance and support services are available to them, the only possible exception being occasional scheduled visits from supervisory personnel conducting formal evaluations. Obviously, evaluations of this sort often are viewed as invidious procedures rather than as a supportive method of identifying errors for the purpose of correcting them. Left on their own in isolated work stations to deal with the complexities of translating abstract theories of knowledge transmission (teaching) and knowledge acquisition (learning) into the concrete reality of a contemporary classroom populated by students whose learning styles, capabilities, past successes, and personal preferences are in constant flux, is it any wonder that the more capable new teachers are the first ones to abandon the classroom? Given the challenges and obligations imposed by diverse instructional needs; the difficulties engendered by inappropriate curriculum materials, outdated instructional technology, and chronic supply shortages; the heavy administrative burden of governmental regulation; student poverty; parental indifference; and community racial and ethnic sensitivities, to name just a few of the more apparent stresses, the amazing thing is that so many teachers choose to remain in the profession.

Second is the problem of a flat salary structure. Teachers reach the top of the salary scale in a relatively few years and then have no monetary incentive to improve their skills and every monetary incentive to leave the classroom for administrative or other higher-paying nonteaching positions. During long periods of

fiscal stress, which characterized most of the seventies, for instance, teacher salaries in real terms have actually declined by as much as 20 percent in many of the nation's central city districts.

Third, as if the objective of school districts were to make a counterproductive arrangement even more so, the workload of the skilled clinician-practitioner capable of helping new teachers is not reduced in order to facilitate the effective execution of this important function. Not only are *new* teachers denied systematic access to the insights of these reflective practitioners; *tenured* teachers are also denied the benefits of regular and close association with excellence. This perverse condition is an outcome of the administrative organization of the schools. With few exceptions, in most school districts all teachers, regardless of level of education and experience, are considered equivalent to one another. That is, for purposes of allocating mentoring responsibilities, assessing instructional duties, determining compensation, establishing incentives, and conferring status and awards, no distinctions are made between the efforts and contributions of the marginally competent teacher and those of the truly gifted and reflective practitioner.

The failure to make a distinction between performance that is merely adequate and performance that is superior leads to feelings of inferiority and insecurity among marginally competent teachers and to feelings of injustice and frustration among reflective practitioners. Teachers who know they are falling short of their capabilities and of the expectations others have of their ability are denied access to positive role models and therefore must stumble along until they attain a level of comfortability. Where the barriers to increased competence are so palpable and frustratingly unassailable, the pursuit of comfort is likely to take precedence over the pursuit of excellence. Teachers who are capable of serving as worthy role models are denied both the opportunity and rewards of doing so, which, however inadvertently, can only heighten their sense of dissatisfaction.

Given the flatness of the teaching occupation and the strong disincentives against collegueship, it can come as no surprise that education is the last topic one expects to hear discussed in teacher lounges. Befitting their circumstances, teachers have established elaborate codes of conduct and behavior designed to minimize public displays of competence, for such displays serve only to underscore the isolation built into the teaching occupation. Studied silence, as a response to the problem of structural isolation, may be effective in the short run. In the long run, it will continue to drive from the profession those teachers who are most sensitive to quality, who thrive intellectually and whose skills expand in an environment that promotes and rewards systematic inquiry, who are capable of self-evaluative behavior, and who place great value on collegueship. These are the teachers who would be most likely to become reflective practitioners. Rosenholtz and Kyle, who have investigated the organizational consequences of isolation, made the following observation:

Teachers in most schools . . . believe . . . that it is wrong to inflict suggestions for improvement upon each other, however well intentioned, and that it is proper to avoid any face-to-face criticism, however constructive. Isolated teachers appear instead to enact a live-and-let-live professional protocol.

In fact, there is the sense in isolated settings that to seek advice from other teachers is to admit, at least to some degree, a lack of teaching competence.

The offering of unsolicited advice is equally poor etiquette, because it implies that the advisor possesses greater teaching competence. In other words, teachers do not generally approach each other with requests for, and offers of, assistance because those actions convey, undeservedly, an aura of superiority or inferiority. To avoid such implications, when teachers do talk with one another, like our Ms. Brooks, conversation is maneuvered around professional issues, with talk about politics, sports, the latest trends and social situations interrupted only occasionally by the swapping of stories about hopelessly uncooperative students or parents. Since it is believed that teachers have both the duty and the right to establish their own classroom standards and procedures, professional protocol in isolated settings prohibits professional dialogue about the substance of teaching, even about the most routine matters. As a result, the conversation becomes more social, [and] the intellectual vigor of the faculty diminishes.²⁴

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In noting some of the difficulties that confound initiatives designed to enhance the attractiveness of teaching—a policy objective that has garnered the support of every would-be educational reformer—we are not attempting to demonstrate that this sensible, and thus potentially effective and enduring, educational reform is impossible. In fact, it could be argued that for the first time in nearly twenty years, there is legitimate cause for optimism with respect to this objective. Reports on the status of the public schools (if not the public itself) are no longer using teachers as the scapegoat for all the ills therein, as they did in the period following the launching of Sputnik. Many reports issued at that time placed much of the blame for the problems in public education on the inadequacies of the nation's teaching force.²⁵ In contrast, the teacher of today is often characterized as a harried, unappreciated, undervalued, and underpaid public servant performing heroic tasks under impossible conditions. Nevertheless, policies designed to increase the attractiveness of teaching through improved salaries, educational standards, and educational studies programs are necessary. Clearly, efficacious and lasting educational reform cannot be achieved without major new initiatives in all these areas. Still, these initiatives alone will not be enough. More—much more—needs to be done.

Effective Teachers: Effective Profession

If the teaching occupation is to become more than what it currently is, and if the change is to be indicative of something more substantial than mere capitulation to public demand that something be done about the schools, then a basic understanding or shared assumption about the educational enterprise must guide the transformation. This understanding will serve as the point of departure for the remainder of this inquiry. If we did not impose this frame of reference, we would have no place to begin our problem identification and solution formulation. The understanding is that teachers can and do make a difference in pupil learning. Effective teachers can have a substantial, enduring, and positive impact; ineffective teachers can have a substantial, enduring, and negative impact. If this were not so, it would be pointless to push for the implementation of the costly policies suggested by *A Nation at Risk* and its progeny—policies designed to enhance the teaching profession's ability to compete for talent, its basic compensation levels,

and its incentive and reward structures for outstanding practitioners. If effective teachers and effective teaching do not make a difference, advocating changes in the teaching occupation that will drain more money from the public fisc is simply irresponsible. In this case, the right solution to the wrong problem would be costly, not only in terms of missed opportunities for effective changes, but also in terms of the misuse of already scarce resources that could be invested in support of more promising policy initiatives.

To the degree that a pupil's social, affective, and cognitive development are influenced by formal instructional activities, and to the degree that these activities take place in teacher-led classrooms, consideration of human factors and organizational variables that influence the quality of the teacher-student interaction warrants a central place in any reformist agenda. In fact, the teacher-student interaction, as a determinant of student achievement, may well be the most significant area in which educational policymakers can exercise their influence. When this interaction is in any way compromised, student achievement is hampered, and so are all attempts at achieving educational excellence. Given the complexity of American public education, pathways to compromised teacher effectiveness and truncated student performance abound. But the pathway to poor student performance is most often taken when teachers are assigned to classroom settings in which they are misplaced, misguided, and mismatched. If one accepts this assertion, it follows that educational reform cannot be achieved without paying attention to the structure of the teaching occupation, and that any proposed restructuring must be guided, and eventually evaluated, by its likely impact on the teacher-student relationship.

Guiding the Restructuring Effort

If restructuring is one of the solutions to the problem of the teaching occupation, then what objectives should be guiding our restructuring efforts? The first and most important outcome of restructuring should be a greater appreciation of and respect for teaching as a high-level activity, one that requires those who take it up as an occupation to objectively demonstrate (1) comprehensive knowledge of the subjects they wish to teach; (2) the ability to systematically conceptualize how knowledge from the learning sciences (i.e., instructional and developmental psychology, cognitive science, ethnography, etc.) can be applied in a variety of instructional settings; and, last but not least, (3) the ability to blend and apply these two essential and complementary skill attributes in the classroom.

Second, it should be recognized that teachers develop and mature as effective practitioners at different rates and that these differences simply reflect the variation in behavior that is characteristic of the human developmental process. *Difference* is not a synonym for *deficiency*. If one were to draw a representative sample of elementary school teachers, for example, all of whom shared a common educational achievement and preprofessional preparation profile, and subsequently monitor their ability to teach an educationally homogeneous group of second-grade students how to read, one would discover that some teachers master this key skill early in their careers, while others require more time and practice to attain mastery. To ignore this variation in the amount of time individual teachers need to acquire teaching skills is tantamount to promoting the systematic mal-use of teacher talent.

The third change that restructuring should promote is the development of a work ethos among teachers that supports self-evaluative behavior—a professional consciousness that encourages teachers to see themselves as evolving practitioners capable of learning from errors, rather than as nonreflective paraprofessionals armed with a set of error-proof teaching methods applicable to all instructional settings.

One way to achieve these three objectives is to put into place in local school districts organizational systems and incentive structures that would encourage, support, and reward teacher-to-teacher cooperative and collaborative efforts, especially where those efforts would result in linkages between highly accomplished clinician-practitioners and teachers in need of continuing training and development. Although differences among teachers should not automatically result in unwarranted distinctions, differences in the rate of skills acquisition should not go unacknowledged. Teacher authority, teacher responsibility, and teacher compensation should be influenced by demonstrated teacher capacity. Differences among teachers are not currently taken into account, as noted earlier.

These changes would transform—we think in the right direction—education as it is currently organized and practiced in the nation's schools. If used to guide the development and institution of new rules for allocating instructional resources and for rewarding achievement and competence, these changes would steer teaching away from the undifferentiated and unattractive vocation it currently is toward a profession bearing a closer resemblance to occupations that require the exercise of informed judgment. Although it cannot be proved in advance—policy initiatives are based on predictions about the way the world might work, not on *dicta* about the way it actually works—these changes are likely to make teaching more attractive to the more academically able college graduate. They certainly would improve circumstances for the more talented members of the teaching corps already in the schools.

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Teaching—From Occupation to Profession:

A Response

Robert S. Peterkin

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Educational reform must go beyond a restructuring of the teaching occupation. A realistic approach would include strengthening the principalship, reestablishing the primacy of education as the focus of public schools, improving the physical plant, increasing parental participation in the decision-making process, and aligning schools with the external communities—especially the business and university communities.

THE QUALITY OF THE TEACHING FORCE is a crucial element in the successful reform of public education: well-trained, competent teachers are critical to the success of America's schoolchildren. Yet the enhancement of professional standards for teachers is only one piece of the puzzle of educational reform.

To examine the issues of teacher preparation and working conditions is to recognize that the *classroom* is the essential unit for effective education. While much of the literature on the effectiveness of schools concentrates on the school—which includes but is not limited to the school environment, the curriculum, the entirety of social programs, the administration, and the physical plant—as the unit of greatest potential for educational change, practitioners and knowledgeable researchers are increasingly examining the quality of the educational interaction in the classroom as the primary force in school improvement.

To illustrate the complexity of the issues confronting American educators in their attempts at reform, it would be helpful to describe a typical urban school day. Students arrive one-half hour to forty-five minutes before the school day begins. Some come early to partake of the breakfast provided by the school system; others come just to hang around because their parents, or increasingly the one parent they live with, has already gone off to work.

No sooner has the school day started than it is interrupted by announcements, and, probably, by the need to collect information for a federal or state agency. On the elementary level, students come and go—to Title I, Bilingual, or Special Needs services, or to participate in sessions with specialists (most school districts cannot afford to hire specialists in art, music, and physical education for each elementary school, so the specialists travel from school to school).

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At the secondary level, students and teachers move every forty-five or fifty minutes all morning. Sometime near the middle of the day, students at both elementary and secondary levels have lunch. Programs that deal with child abuse, adolescent pregnancy, joblessness and other problems are standard fare for the remainder of the afternoon, in addition to continued academic classes. After-school programs prosper for child development activities and child care. Late in the afternoon, buses pick up schoolchildren, thereby bringing to a close another busy school day. I am sure that classroom teachers could add to this overwhelming array.

Schools, particularly those in urban areas, have become the largest multipurpose agencies in the community. Until we confront that reality, school reform has little or no chance of taking hold. I agree with Dr. Gifford that we must have better teachers for our children, but we must also beware of trying to legislate competence at the expense of creativity and individual initiative. Currently, the bulk of educational reform movements are sponsored by the legislative bodies of the states. Mistrusting school professionals and local school boards, state legislators have taken it upon themselves to determine the quality and quantity of education in the United States. While their intentions may be laudable, they seldom consider the totality of the school environment in their efforts to redress the problems of the schools.

If we are to make substantial progress on the issue of school reform, we must go beyond a restructuring of the teaching occupation. A realistic approach would include the following:

Strengthening the principalship. The preparation of school administrators, especially principals and assistant principals, is as deficient as that of the teachers. Principals must be prepared explicitly to work in collegial fashion with teachers who have "new" teaching styles. The literature on school effectiveness stresses the importance of the principal as the educational leader of his or her building, yet few building administrators have had the advantage of a preparatory program which is very relevant to the needs of today's schools.

Reestablishing the primacy of education as the focus of the public schools. School district administrators and local school boards must insist on the academic process as the primary focus of schools. School boards should initiate discussion within the community to develop a common definition of the purpose and scope of education in that particular community. Of course, schools will continue to serve other functions, but we must ensure that educators be allowed to pursue their craft. Social and economic services will continue to be offered by the schools, but the emphasis on education must come first.

Changing the environment of the schools. Both the physical and educational climate of the schools must be examined and modified. The conditions which most students and teachers endure in the schools are simply not conducive to the educational process. The physical plant in most urban areas is in poor condition and certainly would not indicate the value which society supposedly places on public education. With respect to the educational process within the physical plant, I believe that TheodoreSizer's accurate portrayal in his recent study on high schools, *Horace's Compromise*, should awaken us to the crisis that con-

fronts us. The structure of the school day, despite its bureaucratic trappings, is seemingly haphazard and chaotic. Education is delivered piecemeal, subject more to time constraints than reason; all continuity of instruction is sacrificed to the needs of the bureaucracy and the delivery system.

Increasing parental participation. The parents of our schoolchildren must become more involved in the schools; they must participate in evolving a definition of the purposes of schools, in selecting school staff, and in delivering educational services. Without this level of support and participation, schools will be forced to define themselves solely on their own terms and will come increasingly into conflict with expressed (or unexpressed) parental desires.

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Aligning the schools with the external communities. University-business partnerships are the reality of the present and the wave of the future. The business and university communities have been helpful, in numbers of cities and suburbs, in strengthening the individual skills of administrators and in assisting schools in the creation of programs to address the specific needs of students. In addition, positive relationships and rapport with these communities could aid in creating an advocacy for public schools which is sorely lacking at this time.

In suggesting a course of action for the restructuring of the teaching profession, Dr. Gifford has pointed to a crucial path in educational reform. By thoughtfully considering reform of the teaching profession within the context of broader educational reform and all the complex issues of the schools, we may be able to restore confidence in urban public schools and, more important, may restore the value of public education to the schoolchildren of America.

Getting Power Back:

Court Restoration of Executive Authority in Boston City Government

Marcy M. Murningham

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This article chronicles some of the events that occurred when a state and a federal court attempted to disengage from active jurisdiction over two Boston public systems: the public schools and the Boston Housing Authority (BHA). It makes three proposals which, if enacted, would help to keep the courts out of day-to-day management of municipal operations. It also makes some generalizations about the court-agency interplay which are relevant to the postremedial phase of institutional reform litigation. The author uses the term restorative law to describe this court-controlled process of returning power to the executive branch.

WITHIN BOSTON A TRANSITION has occurred regarding the governance and management of public services. There is a new structure for the City Council and School Committee and a new administration team in City Hall and School Department headquarters. A populist air surrounds municipal government; terms like *openness* and *access* are used to describe what was previously viewed as an insiders' club.

Besides the changes in representation and mood, another kind of transition has occurred in local government—one that is intergovernmental and pertains to the relationship between the courts and the executive branch. Over the past year, the city's administration has recovered power from the courts to manage two major segments of municipal operations: Boston's public housing and its public schools.

The restoration of administrative authority, autonomy, and accountability is part of an executive recovery process that occurs in the postremedial phase of institutional reform litigation. In place of a bifurcated decision-making structure, divided between courtrooms and corner offices with their different sets of rules and procedures, the recovery of executive power reestablishes a single structure for implementing public policy. Since this change takes place as the result of court action and final decrees, the concept of *restorative law* is used. Restorative law refers to the executive recovery process; in its broadest context, the concept applies to the process by which defendants in institutional reform cases demonstrate both the commitment and capacity to operate a system in compliance with the law.

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This paper will treat the issue of executive recovery by advancing the concept of restorative law as it applies to Boston city government. A sketch of historical and contextual factors relevant to the judicial activism debate will be drawn to facilitate an understanding of the controversy, and the special nature of court entry into Boston city services will be described. The article will then identify some of the forces at work that contribute to the executive recovery process and will outline some of the basic conditions of court disengagement from the public housing and public school system. In addition to outlining actions that reduce judicial management activity, this article will make a series of propositions which can help assure that the courts will not have to reassert their influence within the Boston public administrative realm. Put plainly, this analysis will specify general conditions conducive to getting the courts out of the business of day-to-day management of public affairs, and will identify actions which help assure that they don't have to get back in.

Background and Historical Context

More than any other big city, Boston is characterized by a shadow system of government: courtrooms serve as policy-making arenas in addition to corner offices and council or committee chambers. Many attribute this to a parochial definition of the public interest—and sense of ethical responsibility—held by many local officials. The management of public affairs through the issuance of remedial court decrees, however, became a special phenomenon of the 1970s and 1980s throughout the country. In part due to the unwillingness or inability of public officials to discharge their duties in a manner consistent with expanding interpretations of constitutional rights, and in part due to greater procedural access to public law litigation activity, the growth of so-called judicial activism has blurred the boundaries among the legislative and administrative branches of government.

Especially since the Supreme Court decision in *Brown v. Board of Education*,¹ the use of court-prescribed corrective measures issued to institutions in which constitutional violations are found to exist has complicated the role of agency managers and subjected the judiciary to a great deal of criticism. The equitable remedial powers of a court, when exercised over public policy disputes, often take the form of affirmative decrees that create some form of institutional power realignment.² To some, this judicial behavior is a proper response to the shortcomings of legislative and executive behavior. To others, such behavior represents judicial overreaching and an attack on the very structure of democratic government.

Within the city of Boston, there are several examples of direct court involvement in the resolution of public policy disputes. Since the mid-1960s, federal or state courts have played a role in matters pertaining to school desegregation; education for children with special needs or possessing limited English-speaking ability; public housing; prisoners' rights as affected by facilities at the Charles Street Jail and the Deer Island House of Correction; municipal finance, dramatically represented by state court involvement in the so-called Tregor dispute of 1981; and environmental conditions within Boston Harbor.

The resultant forms of court intervention, most visibly displayed in the cases affecting the Boston School Department, the Boston Housing Authority (BHA),

and the Boston Harbor, followed extended periods of attempts to settle disputes through appeals to legislative or administrative action.³ Following legislative or administrative inaction, or inappropriate action, the courts became ineluctably drawn into public administration. Once in, they stayed in: the remedial phase of the Boston school desegregation case is in its eleventh year; the receivership affecting the BHA lasted five years.

The Courts' New Role: The Judge as Manager

The institutional reform aspects of these cases in particular, and judicial activism in general, raises questions about the validity of the courts' entry into political and administrative realms. The debate over judicial activism centers around two primary issues: the *propriety* or *legitimacy* of the courts' new role, given the separation of powers doctrine contained in the United States Constitution; and the *efficacy* or *capacity* of the courts, as an institution, to carry out responsibilities that are extrajudicial. In either case, the critical response to judicial activism is often further divided into concerns based on principles and axioms or partisan disagreements over the policy outcomes (such as school busing) of judicial decision making.⁴

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The Boston Cases and Governmental Abdication

Before turning to the issue of restoring authority for managing the public's business to Boston's mayor, City Council, and School Committee, it is important in the first place to understand the special character of judicial intervention. Neither of the two judges Garrity retained active jurisdiction over the BHA or the School Department because he had nothing better to do or because he had a secret yearning for public administration. Despite their differences in manner and temperament, each Judge Garrity took pains to facilitate a resolution of plaintiff grievances without the necessity of direct court involvement.⁵

In the *Findings, Rulings, Opinion and Orders* in *Perez v. Boston Housing Authority* of July 25, 1979, the court took note of "the history of this case and the repeated efforts by the [Plaintiff Class of] Tenants over the years in seeking and in following up every remedy short of receivership in order to obtain safe, sanitary and decent housing as mandated by law."⁶ Neither the presence and good efforts of a master (and staff) to perform services on behalf of tenants, nor the consent decree entered on May 31, 1977, resulted in any significant change in housing conditions for the city's poor. Therefore, the court turned to the only remedy that had not yet been attempted: the appointment of a receiver who would have full authority to administer, manage, and operate the BHA, with control over BHA funds and revenues. The existing BHA's Board of Commissioners was stripped of its powers; following an appeal to the Supreme Judicial Court, in which it approved the appointment of a receiver, Judge Paul Garrity appointed Lewis H. Spence as receiver on February 5, 1980.

By 1984, the achievements wrought by Harry Spence and the staff of the Housing Authority were considered remarkable, both for their contributions to managerial effectiveness and because they helped ignite the public spirit on matters pertaining to housing. These achievements, however, might not have been possible had it not been for the sanctions provided by the receivership. The receiver's court-ordered responsibilities could be carried out without the encumbrances of a five-member appointed board and in spite of the reluctance of other

public officials to tackle housing issues. For the duration of Judge Garrity's receivership (the court retained its jurisdiction until late 1984), the board was prevented from exercising any authority.

The receiver enjoyed the benefits of autonomy, felt in purchasing and personnel areas. Both figuratively speaking and literally, the task of rebuilding an organization was handled brick by brick. The development and installation of modern management systems, the negotiation of collective bargaining agreements, the fostering of a preventive approach to capital maintenance, the implementation of performance evaluation systems tied to merit salary increases—these internal initiatives, in the words of one BHA senior staffer, “have one common thread”:

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We're attempting to get career employees and the rank and file to buy into what we're doing. They have an opportunity to be involved, and hopefully don't have the impression that we're trying to impose.

The benefits of the receivership were then noted by the same individual:

The political insulation has been quite useful insofar as management system developments and morale-related achievements [are concerned]. This doesn't mean that we didn't have to discuss things with the public or negotiate with the union, but the removal of the impediment was useful.

A different pattern of court-agency relations emerged in *Morgan v. Hennigan*, the school desegregation case. Following the liability opinion of June 21, 1974,⁷ the Student Desegregation Plan—the first in a series of over 400 remedial orders—was issued by U.S. District Court Judge W. Arthur Garrity, Jr., on May 10, 1975.⁸ The scope and sweep of the court's jurisdiction were unprecedented: although Judge Garrity utilized remedial guidelines set forth in the Denver school desegregation case,⁹ the Boston orders were unique and provoked well-known controversy at the local, state, and national level. The raw and noisy politicization and polarization experienced in Phase I and Phase II of the desegregation plan, punctuated by changes in the superintendency, by School Committee judicial appeals, and by extensive media coverage, reached its zenith with the partial receivership imposed on South Boston High School on December 9, 1975.¹⁰

The breadth and depth of the court's intervention came to dominate all aspects of educational policy-making and practice within the School Department. The bureaucratic labyrinth of School Department operations, coupled with the reluctance of department officials to carry out any responsibilities in connection with desegregation unless they were specifically ordered by the court, contributed to a gradual displacement of administrative authority. Public opposition to busing, reinforced by the actions of many local officials, became directed to the federal court for “taking over” the school system. Through administrative default, the court became more involved with management activities. This involvement, however, was not as extensive as many portrayed it to be; the level of detail and the scope of authority contained in the court's orders, from the summer of 1975 and continuing through the years, varied from issue to issue. Some orders were broad, leaving a great deal of administrative discretion to the School Department. Other orders were quite specific, representing judicial usurpation of administrative authority. In retrospect, there continues to be disagreement as to the

judicial style employed during the remedial regime: some claim that Judge Garrity went too far in the use of his authority; others claim that he did not go far enough. My assessment is that both conclusions are true. As a result, there was always a question as to where administrative authority ended and judicial authority began.

A well-known feature of the Boston case is that the character of Judge Garrity's intervention incorporated educational as well as equity concerns. The creation of magnet schools and institutional pairings, the orders pertaining to vocational-occupation education, the partial receivership imposed on South Boston High School, and the establishment of parent advisory councils were all designed to reform the school system and infuse it with much-needed vitality. These reforms supplemented the other remedial tools—racial composition, school or district consolidation, and transportation—used by the court.

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There were managerial by-products, however, of the court's intervention that affected the capacity of the School Department to carry out its educational mission. Even though the earlier phase of resistance and hostility eventually gave way to greater acceptance of court-ordered responsibilities, a pattern of administrative dependency set in. Owing both to the erosion of authority and to limited professional capabilities, the School Department came to rely on the court for directives and, in some cases, used the court to further its own policy or political aims. Consistent with the political science maxim that institutions in conflict over time begin to look and act alike,¹¹ the court became entangled with the administrative mechanism it sought to cure, and the School Department became entangled with the principled incrementalism of the advocacy process. A cycle of dependence ensued, and a sort of "psyching out the court" syndrome developed. The department became more passive as the court, since it recognized that its orders were not necessarily self-executing, became more deeply drawn into managerial operations. The orders accumulated and became more detailed.

The appointment of Dr. Robert Wood as superintendent in 1978 marked a turning point in the court-agency relationship. While progress toward achieving the court's remedial objectives had been made under the leadership of Marion Fahey, Dr. Wood's predecessor as superintendent, the Wood administration sought, via its mandate for reorganization, to achieve voluntary compliance with many of the major court orders because the court's remedial objectives were shared. Expected judicial reaction became only one of the many factors considered in the administrative decision making and implementation process. From the court's perspective, many of the extrajudicial factors with which it concerned itself earlier were now viewed, more or less, as forces to be managed by school officials. Despite the firing of Dr. Wood in the summer of 1980, there continued to be progress within the School Department toward compliance with outstanding orders; and despite occasional anticourt outbursts and criminal problems associated with contract fixing, the School Committee displayed a concern for stability and quality in educational operations, a concern that was to become conducive to and reenforced by the promise of court withdrawal. Especially with the election of two black members in the fall of 1981, the governance structure and administrative operations of the Boston public schools became quite different from what existed in 1974 and 1975.

By the time of the city elections of 1983, a succession of actions occurred which set the stage for the restoration of administrative authority for the School

Department and the Housing Authority. Both judges Garrity signaled their desire to terminate their active jurisdiction and, with regard to the public schools, began to do so.

The School Case

Four years ago, in May of 1981—six years after the issuance of the Student Desegregation Plan—Judge W. Arthur Garrity, Jr., made known his desire to terminate active jurisdiction in the *Morgan* case. The pending departure of former state commissioner of education Gregory Anrig, who provided consistently strong and articulate leadership during most of the court's involvement, helped to stimulate a negotiation process designed to produce proposals for final court orders.¹²

Because of the court's tendency to view the State Board of Education as an important force in overseeing local school district compliance, the pending change in state leadership provided an opportune time to initiate what was termed a *consent decree process*, that is, a negotiating procedure designed to produce a series of proposals for final court orders.¹³ Indeed, the State Board had already discussed the implications of federal court withdrawal. In January of 1979, Commissioner Anrig outlined a possible state monitoring role, should the court decide to reduce its involvement. The court was well aware of these earlier suggestions for an expanded State Board role and viewed them favorably. For a variety of reasons, by the spring of 1981, the court was willing to respond to the state's overtures.

In June of 1981, Commissioner Anrig consulted with his board and his staff about the conditions of a viable consent decree process. In that same month, preliminary meetings were held with counsel representing the nine different parties to the case.¹⁴ Immediately prior to his departure from office, Commissioner Anrig sent a letter to Judge Garrity in which he expressed his personal views regarding two criteria for a successful consent decree process:

For a consent decree process to become a reality, however, the key parties will first have to demonstrate the same kind of good faith and cooperation in the development of a recommended consent decree that will be essential for such a final decree to be implemented. A good beginning has been made but the most difficult decisions lie ahead. . . . On the basis of my experience in school desegregation, I do not believe we will find much precedent for the kind of final consent decree or final order needed in the *Morgan* case. The parties as well as the Court will have to be willing to set precedent.¹⁵

For the next twenty months, from May 1981 to January 1983, the so-called consent decree process took place under the direction of then Special Assistant District Attorney General Robert H. Bohn, Jr. Finally, on December 23, 1982, the court issued its plan for disengagement, which contained the following major provisions:

a transitional phase of State Board *monitoring* of school and city defendants' compliance with the court's desegregation orders and voluntary desegregation measures;

a process of *dispute resolution* with the objective of agreement rather than adjudication;

a process of *mediation* whereby, in cases in which the parties fail to reach agreement after negotiation efforts, the State Board would intervene and attempt to facilitate agreement;

a mechanism whereby, should mediation fail to produce an agreement, the State Board would be empowered to prepare a *binding recommendation of resolution*;

an “*ultimate judicial stopgap*” (that is, judicial resolution), should the process of consensual resolution fail;

a process to propose *modifications* of outstanding court orders; and

a mechanism for further judicial withdrawal after January 1, 1985, based on a *prima facie* showing of successful implementation of the transitional administrative processes.

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In its cover memorandum, the court stated that an abiding aim of the desegregation plan was consensual resolution, consistent with the earlier hope of entering a final consent decree:

The court regards the adversarial judicial process as inhibitive of an ideally functioning school system in which compliance with constitutional standards is both voluntary and a matter of course. The process of dispute resolution prescribed by these orders is intended to create a framework for facilitating the consensual resolution of disputes related to the desegregation remedy. This framework is not a substitute for judicial action, but a screen prior to judicial action, to assure that all possible efforts have been expended toward a satisfactory resolution. . . . [T]he remedial process, in our opinion, will now be more effectively pursued under an administrative structure which employs the experience and the common understanding gained over the years, and which provides the parties with an opportunity to confront and resolve issues related to curing the constitutional violation without immediate and inevitable judicial participation.¹⁶

Legal Squabbling: Quality and Equality

The 1982 Memorandum and Orders of Disengagement capped months of proposals and counterproposals made among the twelve attorneys who met, sometimes with School Department or State Board policy staff, on a regular basis. During the course of the consent decree proceedings, however, a series of legal and extralegal events took place which influenced bargaining direction, pace, and position:

A new superintendent of schools, Robert Spillane, and a new commissioner of education, John Lawson, were appointed in the summer and winter of 1981, respectively.

The counsel for black plaintiffs, an attorney named Larry Johnson from the Center for Law and Education, withdrew from the consent decree proceedings and publicly denounced them, claiming his clients' interests were not being served. Mr. Johnson stated his intent to work with black parents in the design and submission of a voluntary student assignment plan emphasizing educational quality rather than racial balance;

Boston voters approved a referendum expanding the governance structure of the School Committee and City Council;

School Committee President Jean Sullivan McKeigue initiated an educational planning process in the summer of 1982, involving parent and community representatives, to supplement the consent decree negotiations (the group was known as the Educational Planning Group);

The Boston Compact was developed, constituting an agreement between chief executive officers in the Boston business community and the School Department to provide jobs for high school graduates;

The conditions of proper judicial authority were attended to in a decision handed down by the First Circuit Court of Appeals in September of 1981. In an opinion pertaining to school closings, the Appeals Court upheld Judge Garrity's rulings but advised that the lower court's future decisions should more clearly relate to desegregation than to educational issues.¹⁷

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In addition to influencing the actions of the attorneys engaged in the consent decree process, these managerial, political, educational, social, and legal forces formed a backdrop to the court's deliberations and actions concerning disengagement. Without describing the full effect of these forces, of particular significance was the visible split within plaintiff class.

Upon the withdrawal of plaintiff counsel, Thomas Atkins, formerly of Boston and recent general counsel for the NAACP (one of the original parties filing the complaint), filed a motion with the court seeking permission to appear as a counsel for black plaintiffs. Judge Garrity's response was to let both Larry Johnson and Thomas Atkins represent plaintiffs in the consent decree proceedings. Each attorney claimed to represent plaintiffs' interests, but each had different objectives for court disengagement: Mr. Johnson's objective was a student assignment plan based on voluntary choice, and Mr. Atkins's was the continuation of mandatory assignments, albeit with some refinement.

The split within plaintiff class created repercussions throughout the community and affected the negotiation process among the attorneys; but the internal disagreements over the nature of the remedy appropriate to Boston were not new. One segment of the black community preferred integration and improvement of educational quality as a method of redressing the grievances cited by plaintiff class. This approach to desegregation was advocated by those attorneys who filed the original complaint back in 1972. Another segment of the black community preferred educational improvements whether or not the schools were desegregated. Racial mixing was not viewed as the primary remedy to the problem of denial of access to educational quality; an infusion of resources to educationally deficient schools was considered to be a more effective solution. As Derrick Bell and Ronald Edmonds point out, this fundamental difference over policy persists throughout the history of desegregation cases.¹⁸ Therefore, the breach between Mr. Atkins and Mr. Johnson was partially grounded in historical precedent.

Many thoughtful observers, however, considered the public position taken by Mr. Johnson as a natural outgrowth of Judge Garrity's remedial plan. Were it not for the racial balance aspects of the court's numerous orders, which created a foundation of equity from which changes in attitudes and behavior could occur, it might be more difficult to argue persuasively for remedies that did not include racial mixing as a factor. For some, Mr. Johnson's pronouncements concerning the development of a voluntary student assignment plan were interpreted as a

logical next step in the lengthy process of achieving quality education in a non-discriminatory environment. For others, though, his actions were viewed as a defection from the ranks of those committed to educational equality. His position, since it contradicted the legal position originally held by plaintiff black parents, raised a question as to whether the *Morgan* case continued to represent the legitimate concerns of all parents.

Transitional Authority: The Road to Recovery

In spite of the procedural uncertainty inherent in the consent decree proceedings, as well as questions about the legitimate representation of clients' interests, the parties produced various working papers and draft proposals throughout 1981 and 1982. There was no submission, however, of a single document representing the parties' proposal for final orders.

After a series of judicial decision points made in response to a variety of circumstances and conditions, Judge Garrity issued his final order for disengagement in the Boston public schools.¹⁹ The court perceived its efforts to promote a consent decree as failing; these orders were intended to return responsibility for protecting the rights of black and other minority parents and schoolchildren to the community and School Committee. The court's orders created mechanisms for monitoring School Department compliance with desegregation and for third-party dispute resolution that vastly reduced the need for direct judicial involvement. In delegating primary responsibilities for monitoring and dispute resolution over the next three years to the State Board of Education, the stage was set for a return to administrative normalcy.

In a transitional sense, though, the road to recovery meant a change in the relationship between the city and the state: at the least, the expanded State Board role required an increase in the level of interaction with the School Department. In its 1982 order, the court required the State Board to submit a written report to the court, parties, and Citywide Parents Council by January 15 and July 15 of each year the disengagement order remains in effect. In a sense, one form of dependence was replaced by another.

In carrying out its court-ordered responsibilities, the State Board made every effort to be as unobtrusive as possible. The good-faith efforts emanating from both the State Department of Education and the School Department represented a departure from an earlier era of suspicion and mistrust. Heightened knowledge of School Department operations, coupled with a greater willingness to cooperate in responding to requests for information, data, and reports, contributed to a state-local relationship marked by collaboration rather than control.

Adding to the involvement of the State Board of Education in School Department activities was the appointment of two new members with local ties. Mary Ellen Smith and Loretta Roache joined the board in 1984 and brought with them a great deal of knowledge and sensitivity about the desegregation case. In some instances, their presence affected the philosophy and direction of the State Board; for example, the board became more overtly critical of the court in late 1984 and revised its own monitoring procedures to make them less detailed and more broadly consultative.

Nevertheless, the intent of the federal court was that there be an interim period for bringing the case to a close and that the monitoring role of the State

Board, as outlined in 1982, be temporary. While the board continued to generate monitoring reports, the court continued to reduce its role. In early 1985, the court terminated its jurisdiction in several areas in which remedial orders were entered, including special education, bilingual education, the institutional pairings, and student/school safety. It also approved modifications of the student desegregation plan advanced by school defendants, most notably those creating an experimental district with greater flexibility in student assignments.

The Restoration of Executive Control:

The Court Closes the Case

In July of 1985, Judge Garrity issued his long-awaited draft final judgment for closing the desegregation case.²⁰ In this memorandum he cited several factors, similar to those referenced in December 1982, for his action:

The parties' infrequent use of the dispute resolution process during the interim period suggested a "common understanding of rights and responsibilities under the remedial plan";

The apparent willingness of the new thirteen-member School Committee to implement the remedial plan;

The strong public commitment of Boston Mayor Raymond L. Flynn to educational excellence and desegregation;

The 88.5 percentage level of pupil attendance during the 1985 school year, which was the highest since 1970-71; and

The monitoring reports generated by the State Board, which provided an appraisal of progress made and steps to be taken to fulfill the requirements of the remedial plan.²¹

Judge Garrity also described the experience of proposing modifications to the desegregation plan. Although there were several disparate initiatives for modifying the plan throughout 1984, none was cohesive enough to be subjected to the formal modification process. By December 20, 1984, however, the School Department proposed a series of modifications to final court orders. Following negotiations among the parties, eight of the eleven proposed modifications were adopted by the court, in early 1985.

At a court hearing on August 7, 1985, the court outlined a set of principles that would be used to measure School Department performance. The court's intent was to provide the department with discretionary authority to carry out its administrative responsibilities without judicial oversight. This done, Judge Garrity finally ended the court's involvement in the school case when he issued his final orders on September 3, 1985. These orders returned to the School Committee the authority to run Boston's public schools.

Clearly, the circumstances, structure, and individuals affecting the Boston public schools have changed since the liability finding of 1974. While one cannot make the claim that racism has been eradicated (centuries of conflict cannot be remedied in a decade), few can dispute the progress of the department, in both attitude and action, toward achieving desegregation. In short, the school system has regained the right to manage its own affairs.

Ironically, this restoration of local executive authority has occurred at a time when state government is beginning to play a more prominent role. The educational reform bill signed into law by Governor Michael S. Dukakis in July 1985 broadens

the authority of the state to provide incentives for educational excellence. Other trends—such as the devolution of the federal governmental role, the limitations on school district authority imposed by Proposition 2½, continued public concern with and interest in the quality of education, and increased demand for accountability and performance standards—contribute to the expansion of the state's influence over local district operations. For now, however, the opportunity exists for the Boston public schools to demonstrate that the recovery of their executive power is warranted. Judge Garrity seemed to feel that it is; if he didn't, he would have retained active judicial oversight or transferred the court's authority to the state.

The final section draws some general conclusions about the optimal process of disengagement. In attempting to specify basic conditions for the return of agency authority, the experience of the Boston Housing Authority is used as well. Both Boston cases, while differing in terms of style and scope of judicial intervention, focus of policy, and organizational characteristics, serve to illuminate more general principles for public management.

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The Boston Housing Authority Case

Although the process for withdrawal was neither as formal nor as public as that affecting the School Department, former superior court judge Paul G. Garrity withdrew active jurisdiction over the BHA in late 1984. "I'm not 'sick and tired' or desperate to get rid of it, but all good things have to come to an end," he stated prior to his action. "I'm predisposed to withdraw because I think the other branches [of government] should be permitted to assume responsibility for the operations of the BHA and be held accountable."²² Contributing to his action was his own desire to go into private practice.

Harry Spence resigned as receiver in the fall of 1984 to return to the private sector. Mayor Flynn appointed former state representative Doris Bunte as his successor in November of 1984. Because of Ms. Bunte's experience with and commitment to public housing, her appointment was greeted enthusiastically by the court and the community.

The Development of System Capacity

There have been many accomplishments since the receivership was imposed on the Authority six years ago. The progress in such areas as vacancy reduction, rehabilitation, tenant selection, fiscal management, and security are partly the result of the day-to-day efforts of the receiver and his or her staff to create a climate of professionalism, thus enabling managerial capability and a sense of pride to emerge. The gains made in the provision and maintenance of low-income housing in Boston, however, are not just the result of the actions of committed and capable individuals. They are also an outgrowth of the special kind of autonomy the receivership afforded. It was pointed out earlier in this article that the receiver was endowed with extraordinary powers relative to the operations of a highly politicized system. Without the encumbrances of a politically appointed board, and with such benefits as centralized authority, the BHA has been able to make real improvements in the provision of housing for the poor.

Historically, the BHA was a stepchild of City Hall, with diffuse control and little administrative or political support. Currently celebrating its fiftieth anniversary year, the BHA now reports directly to the mayor, with a much broader base

of administrative and political support. A special concern, however, is the extent to which the public housing function can be effectively discharged without relying too heavily on goodwill or political favoritism.

This is an interim period, then, for the BHA. While the executive administrator reports directly to the mayor, no final organizational plan has been adopted. In fact, there is some disagreement as to the best structure for governance and oversight. One view is that an oversight committee, comprised of tenants, should be delegated responsibilities for monitoring BHA operations. This position is strongly advocated by Tenants United for Public Housing Progress, a tenants' rights group that has done important work organizing resident task forces at the local project level.

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An alternative view is that the public housing function should be integrated with other housing and development functions in City Hall. In this model, the BHA would not occupy a direct reporting relationship to the mayor. Organizationally, it would be placed at the same middle-management level with other offices, such as economic development, community development, construction and preservation, and public facilities, under the jurisdiction of a senior official reporting directly to the mayor.²³

For now, the BHA continues its work and continues to make progress in such areas as resident participation and decision making, labor relations, code compliance, and desegregation. The postreceivership state did not result in uncertainty and confusion, as some observers feared it would. Under Doris Bunte's leadership, the process of improving performance, professionalizing tasks, perfecting newly developed management systems, and upgrading morale has continued.

Normalizing Race Relations: The Unfinished Agenda

Perhaps the greatest vulnerability in the tenure of the receivership is the issue of race relations. There are currently three housing developments which remain segregated. As the City resumes administrative control over the operations of the BHA, it becomes subject to the equity requirements of state and federal constitutional, statutory, and regulatory provisions. Should these segregated conditions not change, chances are that new lawsuits will be filed.

The receivership, with its alliance to the court, acted as a buffer in helping to resolve racial problems. The Authority therefore was able to employ persuasion rather than confrontation and encouraged a voluntarist approach to dispute resolution. One major example of this mode of operation was the desegregation of the Charlestown and South Boston developments. After a year's discussion, minority families moved peaceably into Charlestown in February of 1984. There is no question that the full support and backing of Mayor Flynn was needed to help assure the peaceable desegregation of Charlestown. Indeed, the full support of many city and neighborhood officials was necessary. The extent to which such support continues to be forthcoming, as well as the relative success of the Charlestown experience, will affect continued autonomy. Stated one official, "The Authority would have failed if Charlestown didn't work."

Structural Implications and Resources Requirements

The preceding discussion of the BHA receivership and the Boston school desegregation case is intended to provide a context for understanding what needs to be

done to preserve the simple justice gains made as a result of court intervention. The relinquishment of active court supervision provides an opportunity, mentioned earlier, for executive and legislative action, which assures that the courts will not have to reassert their authority. Although controversy will continue to exist over whether or not the efforts of either Judge Garrity “worked,” concern over the fate of the schools and public housing could be more productively directed toward initiatives which commit the provision of municipal services to principles of fairness and dignity, thus precluding the reentry of the courts into public administration.

Restorative Law and the Boston Public Schools

It's been eleven years since the liability opinion was issued in the school desegregation case. Since then, there have been many changes in conditions of schooling in Boston which have helped bring the system into greater compliance with constitutional requirements. These changes—the increased level of electoral responsiveness achieved through district representation, the internal managerial reforms initiated by former superintendent Wood and continued by former superintendent Spillane, the demographic shifts affecting the school system's population and constituents, the current attention to public education which supports new partnerships between the school system and other important sectors—provided the federal district court with confidence that the parties to the case could find common ground for resolving outstanding issues: hence the consent decree process throughout 1981–82 and the transitional disengagement phase of 1983–85.

The transitional phase of State Board monitoring was essentially smooth. Still to be determined, however, is the appropriate administrative configuration once the court enters its final judgment. What are the administrative conditions most conducive to School Department autonomy which also promote the quality and equality goals of the court?

The propositions in the following sections are made with the hope that they will contribute to a dialogue about making government work.

Fixing Accountability: Strengthening the Superintendency

One chronic problem affecting the School Department concerns the constraints on the managerial authority of the superintendent.²⁴ Prior to 1978, the superintendent had no control over business, facilities, or clerical operations; these functions reported directly to the School Committee. With the passage in 1978 of Chapter 333, the formal powers of the superintendent were strengthened: all department operations were brought under the jurisdiction of the superintendent; the middle-management tier of associate superintendents was abolished; cabinet-level senior staff units were created; and the superintendent was given the authority to dismiss certain senior staff members without School Committee approval.²⁵ Chapter 333 also provided a mandate for further reorganization of key managerial operations. It soon became apparent, however, to those in the superintendent's office that Chapter 333 was more sizzle than steak. While it represented a step in the direction of improved managerial accountability, it did not provide the superintendent with discretionary authority in personnel or certain budget areas. The School Committee retains the power of appointment for all categories of personnel and the power of dismissal for most. The committee

also retains authority over the award of all contracts, and continues to remain involved in certain expenditure-control procedures. Given the legacy of patronage and the minimal educational inclinations of many previous committee members, continued involvement of the committee in these aspects of department operations carries potentially unprofessional consequences. Every Boston superintendent has learned this over the past ten years. On July 31, 1985, Dr. Laval Wilson became Boston's new school superintendent. His appointment provides an opportunity for a redefinition of the position.

Proposition 1: Chapter 333 should be revised in order to strengthen the managerial authority of the superintendent. The proper role of the School Committee is to set citywide educational policy and oversee general system adherence to stated policy objectives. The School Committee should function as trustee or steward of the Boston public schools, not as manager. With the expansion of the committee from five members to thirteen, the need for distinguishing between policy-making and policy-implementing responsibilities became more critical. As we have seen in the past several months, the behavior or style of some incumbents is not enough to safeguard the School Department from committee meddling. There needs to be *structural* reinforcement of managerial authority so that coherence and accountability in department operations can be achieved.

In 1974, the U.S. District Court declared that the Boston public schools were unlawfully segregated and that such segregation was the product of purposeful and intentional behavior on the part of the School Committee. The allocation of resources and the hiring and placement of personnel were two major categories within which deliberate violations of constitutional principles were said to have occurred. In 1985, these managerial functions still reside with the committee, in spite of the trend toward decentralization as represented by school-based management. While overall allocation of resources is clearly one of the general policy responsibilities of the School Committee, excessive or minute interference can be confusing and demoralizing. Judge Garrity's disengagement order of 1985 restores executive authority to the School Department. *Genuine* executive authority should be restored to the superintendent's office, and, in turn, that authority could be more genuinely delegated to the local level as the result of a new home rule petition that would revise the provisions of Chapter 333.

Maintaining Professionalism: The Need for a Comprehensive Planning Function

In addition to the problem of segmented administrative authority, another chronic managerial problem affecting School Department operations is the absence (or inadequacy) of a comprehensive planning function. Currently, responsibilities for long-range planning are ad hoc and scattered throughout several offices; no office or unit is formally designated to reconcile individual long-range projections—in areas such as curriculum, facilities, professional support, personnel, budget, and so on—with systemwide objectives and priorities.

Furthermore, given the deficiency in the strategic planning capacity, there continues to be an absence of reliable information concerning the effects of various educational initiatives taken in the past few years. Responsibilities for testing and evaluation have been shuffled around; a variety of programs (externally funded

as well as city funded) have been installed and left to function without being integrated into regular operations; policy pronouncements have emanated from either the committee or the superintendent's office with little rationale to back them up. Like most public agencies, the School Department experiences great difficulty when it comes to assessments of programmatic initiatives.

Proposition 2: A senior-level planning office should be established within the School Department for the purpose of allowing the system seriously to address long-range educational policy objectives in light of resource availability and desegregation considerations. A department-based planning office would promote greater autonomy on another front as well: since current public attention on education is likely to result in a number of proposals resembling "quick fix" solutions rather than serious propositions for improving educational quality, school districts are more vulnerable than ever to the whims of public opinion, political forces, private ventures, and popular trends. Coupled with greater mayoral and City Council interest in school operations, a real need exists for the sort of informed and balanced perspective a well-structured and well-staffed planning office could provide.

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Restorative Law and Equal Protection

The focus of this analysis has been on the special circumstances of court-agency relations that promote court disengagement and eventual administrative normalization. "Getting the court out" is taken as a desirable objective, but it carries attendant assumptions about what a system and its leadership need to do to make court withdrawal happen. After all, court intervention in the first place occurred as the result of institutional behavior that violated somebody's rights. Court disengagement can occur only with the knowledge that the institution has somehow changed, and that individual or group rights will not be violated again.

This article has laid out some structural administrative considerations for the return of executive power to the Boston public schools. There are, of course, other considerations conducive to judicial restoration of executive power: changes in the public mood; leadership personalities and styles; greater political access; public awareness, through the media or other vehicles, about the operations of public systems; and the development of alternative mechanisms for resolving conflict without always having to go to court.

The presence of a new mayoral administration and an expanded City Council and School Committee represents a turning point in the management of public affairs in Boston. The entry of newcomers into City Hall and Court Street who care about making government work for people in the neighborhoods throughout the city contributes greatly to institutional accountability and the restoration of public trust. By all accounts, we are likely to see greater involvement with and commitment to the provision of public services that are professional and fair. We are, perhaps, on the verge of an era in which Boston will become known as a city that cares for its people in truly nondiscriminatory terms and whose public agenda has shifted from equity to economic concerns. The forces at work seem to point in this direction.

The hostilities that were directed toward Asians during the summer of 1985 indicate that prejudice has not disappeared within the City of Boston. Racial incidents

continue, and the list of minority groups discriminated against expands. In the summer of 1984 the Boston City Council passed a human rights ordinance that outlawed individual or institutional behavior which occurs in a discriminatory fashion. Still needed, however, is an enforcement mechanism for the ordinance's provisions.

There have been many proposals over the years for the creation of a city agency endowed with the authority to investigate and prosecute charges of discrimination. These proposals are worth considering, especially given the deemphasis on federal enforcement of civil rights protection.

Proposition 3: An Office of Equal Protection within City Hall should be established and charged with responsibilities for monitoring the performance of all city agencies, resolving disputes that are the result of complaints and, if necessary, making case referral to the Corporation Counsel for litigation on matters pertaining to the violation of individual or group rights as outlined in relevant federal, state, and local laws and regulations. Such an office should be staffed with individuals who are knowledgeable about public bureaucratic behavior and skilled in such areas as mediation, bargaining, and negotiation. Reporting directly to the mayor, the office should have guaranteed access to information, data, and records and should operate in an "inspector general" fashion. Besides responding to specific grievances, the office would provide periodic public reports on city performance with regard to the protection of human rights and the promotion of equal opportunity.

There are several local groups—as well as regional offices of federal agencies—that are active in the areas of human rights and affirmative action. These groups provide important pressure and are a source of valuable information as to ways in which government can be made more accessible. What they lack is the credibility and clout a highly placed, internally based office can provide. Mayoral establishment of an Office of Equal Protection could draw upon numerous resources from throughout the city and mobilize them to fruitful action.

Conclusions

This analysis of court-agency relations in Boston is incomplete. While the school case and the public housing case represent the most dramatic forms of court intervention, there are other examples. Federal court involvement continues regarding facilities at the Charles Street Jail; still unresolved in this case are conditions affecting improvement and location of the facilities. Similar problems continue to exist at the Deer Island House of Correction, which is currently operating under the terms of a consent decree.

In another area, a dramatic example of court involvement with the management of public affairs concerned Boston Harbor. As a result of a suit filed against the Metropolitan District Commission (MDC) by the City of Quincy, former superior court judge Paul G. Garrity appointed a master in the summer of 1983 to work with the parties to develop harbor cleanup proposals. Underlying the problems affecting the harbor was an enormous lack of intergovernmental cooperation. Both federal and state agencies were remiss in maintaining the harbor, according to the Conservation Law Foundation (CLF). The CLF filed suit

in federal court against both the state and federal governments for failure to curb harbor pollution. For years, the MDC and the U.S. Environmental Protection Agency (EPA) have failed to produce either plans or a timetable for cleaning up the harbor. State court action was therefore sought to force development of such plans, as well as to cause jurisdictional cooperation.

Harvard Law Professor Charles M. Haar, the court-appointed master, attempted to negotiate a remedial plan among the parties. One by-product of these efforts—aided by the support of state Senate President William Bulger and the work of a gubernatorial harbor study commission first headed by former governor Francis Sargent—was a legislative bill that created a Massport-like Metropolitan Water Resources Authority. The Authority was given responsibilities for initiating and maintaining a massive cleanup effort serving forty-three communities and featuring the transfer of relevant personnel and equipment from the MDC.

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The legislation languished for almost the entire year, not an unusual fate for such a reform-oriented proposal. By the fall of 1984, Judge Paul Garrity's response to this inertia was to take a highly public profile and threaten court receivership if the legislature did not act. This colorful display of judicial power worked; the bill creating the Water Resources Authority was passed, the eleven-member board appointed, and an interim director appointed in February 1985. A permanent director was expected to be named by the end of the summer. If the court had not acted in response to legislative inaction, there probably would be no administrative structure to clean up the harbor.

A bias running throughout this article is the belief that public administrators and other officials should discharge their duties in a manner that precludes the necessity of court intervention and oversight. Sometimes, however, those elected or appointed to public office are unwilling to perform, or incapable of performing, in accordance with certain constitutionally or statutorily based standards. As a result, lawsuits are filed, claims are made, and judicial action is sought to reform agency operations. While the consequences of such reform initiatives are multiple and public reactions to them mixed, few judges enjoy their managerial role. Speaking to the senior executive program at Harvard's Kennedy School of Government, Judge William Wayne Justice described the averse judicial attitude toward executive intervention:

I believe that I echo the sentiments of all the so-called activist federal judges, throughout the country, when I tell you I had just as soon have a live rattlesnake thrust at me as a lawsuit dealing with constitutional claims against an administrative agency.²⁶

Restorative Law and Administrative Normalization: Some Principles

What are we to conclude about the intergovernmental system if, as is often the case in Boston, one branch is constantly intervening into the other? Beyond the aforementioned structural propositions, are there more general principles or conclusions we can draw from recent state and federal court efforts to restore administrative authority to local officials? What are the optimal conditions for court disengagement?

An important issue to remember is the centrality of the court-agency relationship. Institutional reform may occur piecemeal and with the participation of many

actors, but it occurs in remedial cases as the result of court decrees. Making interpretations of rights and responsibilities, a court directs an agency to act in accordance with its perception of the agency's capacity to do a better job. Judicial style may vary, but the intent is the same: to provide sanctions on administrative practices so that a system operates without violating certain guaranteed rights.

As there are several populations affected by court decrees, it is easy to dismiss the primacy of the court-agency relationship. The plaintiff population and various groups that provide legal representation to plaintiffs or that represent plaintiffs' interests are, of course, crucial; until their rights are vindicated, a case remains active. Another sector affected by court decrees is what has been termed a *secondary population*: comprised of public officials, the media, special interest groups, and public opinion (or, more specifically, public concerns about judicial policies), this group is not directly involved with remedial law cases but strongly influences them and is influenced by them as well.²⁷

Within Boston, members of the secondary population are often vocal in their opinions about court and agency behavior. One sometimes wonders, in fact, whether a sort of tradition has developed whereby courts are expected to withstand criticism and intervene, handling administrative hot potatoes others are more reluctant to deal with.

The point to be made is that although members of a secondary population are not directly affected by or involved with carrying out judicial policies, their response to the court-agency interplay carries a great deal of weight. Public statements made by the mayor, news coverage and editorials in the local media and press, the behavior of the state legislature and government, the efforts of the private sector—all of these forces contribute to a court's assessment of the readiness of the community in general and the agency in particular to take back management responsibility.

One generalization, then, to be made about court disengagement is that *there needs to be some evidence, expressed by members of the secondary population, of commitment to the public provision of services which are both equitable and just*. This demonstration of essential agreement with basic principles governing the remedial regime provides assurance to a court that the environment can provide sanctions on administrative behavior without the necessity of active judicial oversight.

The nature of the secondary population's role leads to a second generalization: *the greater the extent to which it can provide assistance to the agency in the post-remedial phase, the greater the likelihood of disengagement*. For example, the involvement of the business and finance communities with the Boston public schools generates much-needed local support but also sets a standard for further interaction. The same can be said for the involvement of the Boston Foundation with the city's schools and the Housing Authority. The commitment and engagement of civic leaders to the restoration of public services constitutes a public-private partnership of the highest order; this fortification upon emergence from court oversight is essential to the growth and well-being of an autonomous system. It was, after all, years of neglect and isolation that characterized those systems destined for court takeover.

A third generalization with regard to executive recovery concerns the implementing agency. As we have seen, agencies are often limited in their capacity to implement judicial decrees. An agency's tradition and policy preference, resource

base and organizational characteristics all contribute to its capacity to comply with remedial principles. One would expect that, if anything, the remedial phase would have fostered new organizational values, patterns, and behaviors; ideally, these new traits could withstand the transition to a postremedial state. *The apparent internalization of new attitudes and practices becomes another measure, then, of system readiness to regain its authority.* The educational function of the remedial phase—that is, the extent to which it helps an organization focus on changing its ways—helps determine the extent of this internalization and whether or not it can last.

Related to this is another generalization regarding court disengagement. In both the school desegregation and public housing cases, the court signaled its intent to withdraw and then provide an interim transition period aimed at closure. There were differences in the transition process used just as there were differences in the mode of intervention, but in each case it was necessary to formalize an interim period. *It is not easy to move a system from dependence to independence overnight; both courts and agencies need to recognize that divorce needs to be preceded by a period of trial separation.*

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During the interim transitional period, the presence of a set of monitoring procedures provides a gauge as to organizational readiness to absorb greater responsibilities. As with State Board monitoring of the Boston public schools, the monitoring process needs to generate information about what has been accomplished with regard to compliance. In addition, as was learned by the State Board, the monitoring process must be oriented toward institutional self-sufficiency. This forward-looking characteristic of institutional review is a tricky one for a regulatory agency to maintain; the State Board sometimes lost sight of this part of its role. Therefore, a fifth generalization regarding court disengagement is that *the monitoring period should be specifically directed toward agency autonomy.* Maintaining the tension between oversight and deliverance requires special skills and procedures; a clear understanding of the monitoring mandate permits a more effective deployment of staff resources. The evaluation process should be carried out by individuals who recognize their educational responsibilities as well.

Perhaps the most visible characteristic of the disengagement process affecting the school desegregation case was the active participation of the parties in the negotiation process. It took months before the attorneys representing the parties, accustomed as they were to courtroom ritual, could develop a productive negotiating style. Indeed, the adversarial process does not lend itself easily to long-range policy formulation, especially when it is carried out by representatives of key actors. Two more generalizations, therefore, are that *elements of the negotiation process should be understood by the parties from the outset, and a commitment to this process should be obtained and maintained.* The consent decree process in the school case was crippled by the uneven participation of plaintiff attorneys. A commitment to participate fully in negotiations for modification of court orders might have speeded up the disengagement process.

Finally, a major lesson emerging from the remedial experience is the need for greater knowledge and experience of the world of the court and the world of public management. While it may sound trite, the language, customs, and procedures of these two worlds are different. In the remedial and postremedial stages of institutional reform litigation, the two worlds are bound together in a manner

that can be irritating. To achieve the desired status of institutional compliance and self-sufficiency, there must be more intelligence on both sides of the bench. A final generalization, then, is that *public managers, judges, and lawyers should be made aware of the subtleties and requirements of both the world of judicial review and the world of public management*. In this way, the precepts of the Constitution and the public interest will be better served.

Notes

1. 349 U.S. 294 (1955). Throughout our nation's history, there have been cycles of judicial activism followed by quiescence. Such activism, prior to *Brown*, usually took the form of proscriptions upon corporations, the Congress, or the presidency in areas concerning economic and commerce activity.
2. The special qualities of public law litigation are discussed in Abram Chayes, "The Role of the Judge in Public Law Litigation," *Harvard Law Review* 89 (1976): 1281; A. Chayes, "The Supreme Court 1981 Term—Forward: Public Law Litigation and the Burger Court," *Harvard Law Review* 96 (1982): 4; Colin Diver, "Superintending Structural Change in Public Institutions," *Virginia Law Review* 65 (1979): 43; Judith Resnick, "Managerial Judges," *Harvard Law Review* 96 (1982): 376.
3. With regard to the city's public schools, "free" black parents petitioned the General Court for access almost two hundred years ago in "Petition to the State Legislature," October 17, 1787. In 1849, the father of young Sarah Roberts went to court to challenge the Boston School Committee on its practice of excluding blacks from schools reserved for whites in *Roberts v. City of Boston*, 59 Mass. 1871, 209 (1849). In 1850, the State Supreme Judicial Court in *Roberts* upheld the power of local school committees to maintain separate facilities for black and white children. Black parents again turned to the General Court, which enacted state legislation in 1855 prohibiting restricted admission to Commonwealth public schools on the basis of race, color, or religious preference.
4. See especially Nathan Glazer, "Towards an Imperial Judiciary?" *The Public Interest* 41 (1975): 118; Donald Horowitz, *The Courts and Social Policy* (Washington, D.C.: Brookings Institution, 1977); Nathan Glazer, "Should Judges Administer Social Services?" *The Public Interest* 50 (1978): 64; Raoul Berger, *Government by Judiciary: The Transformation of the Fourteenth Amendment* (Cambridge, Mass.: Harvard University Press, 1977).
5. Most people continue to confuse the two Garritys and the cases over which each presides. Many think that they are related. They are not. W. Arthur Garrity, Jr., is a federal district court judge and presided over the school desegregation case. A native of Worcester, Massachusetts, Judge Arthur Garrity is soft-spoken and charming; he remains fastidiously polite and patient under even the most trying of circumstances and exempts himself from discussions of the case outside his courtroom. Now in private practice, Paul G. Garrity was initially a housing court judge who was subsequently appointed as an associate justice of the State Superior Court. A native of Boston, Paul Garrity is outspoken and more colorful in his manner; his public demeanor occasionally revealed his impatience at some action and he was not reluctant to provide his opinions or views of judging and how Boston government functions. While they differ in their approach to their roles, one is struck by how deeply each man feels about the job of judging. In addition, they are both meticulous thinkers who choose their words carefully and remain conscious of public perceptions of their work.
6. Superior Court Civil Action No. 1722, Commonwealth of Massachusetts.
7. *Morgan v. Hennigan*, 379 F. Supp. 410 (D. Mass. 1974), *aff'd sub nom. Morgan v. Kerrigan*, 509 F. 2d 580 (1st. Cir. 1974), *cert denied*, 421 U.S. 963 (1975).
8. There is no record anywhere, and no one directly involved with the *Morgan* proceedings over the past nine years can say with certainty exactly how many court orders have been issued. Some were issued orally from the bench; others were apparently lost.

9. *Keyes v. School District No. 1*, 413 U.S. 189 (1973).
10. *Morgan v. Kerrigan*, "Order Concerning South Boston High School," December 9, 1975 and "Order Suspending Appointive Power of School Committee," December 9, 1975. Because the court never took upon itself the direct authority for implementing a remedy, the receivership imposed on South Boston High was considered to be "partial," preserving the authority of the existing chain of command.
11. James Q. Wilson, *Political Organizations* (New York: Basic Books, 1973).
12. The court expressed its hope for bringing the *Morgan* case to a close on numerous occasions since the August 1976 order appointing the Citywide Coordinating Council. Since 1979, in oral statements as well as in written opinions, there were many expressions of confidence in the School Department's progress toward compliance; the court often hinted that such progress would lay an important foundation for disengagement.
13. Participants in the negotiations acknowledged that, in the strictest sense, the use of the term *consent decree* was a bit misleading. It seemed unlikely, for example, that full consent among all the parties would ever be achieved. The question remained as to "how much" consent was necessary to signify "real consent." This, among other factors, led to the attorneys' use of the term *proposed final orders* as a descriptor. Public references, however, continued to be made to the consent decree process.
14. Those parties who occupied formal standing in the Boston case at the time the consent decree proceedings got under way included the certified class of all black children enrolled in the Boston public school system and their parents ("plaintiffs"); the Boston School Committee and the superintendent of the Boston public schools ("school defendants"); the commissioners of the Public Facilities Commission, the director of the Public Facilities Department and the mayor of Boston ("city defendants"); and the State Board of Education and commissioner of education ("state defendants"). Intervening parties were El Comite de Padres pro Defensa de La Educacion Bilingue ("El Comite"); the Boston Association of School Administrators and Supervisors, AFL-CIO (BASAS); the Boston Teachers Union (BTU); the Boston Home and School Association; and Concerned Black Educators of Boston (CBEB).
15. Letter from Commissioner Gregory R. Anrig to Judge W. Arthur Garrity, Jr.
16. *Morgan v. McKeigue*, "Memorandum and Orders of Disengagement" (23 December 1982).
17. *Morgan v. McDonough*, 689 F. 2d 265, 280 (1st Cir. 1982) (Campbell, J.).
18. See Derrick Bell, "Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation," *Yale Law Journal* 85 (1976): 470; Ronald Edmonds, "Advocating Inequity: A Critique of the Civil Rights Attorney in Class Action Desegregation Suits," *The Black Law Journal* 3 (1974): 176.
19. For a detailed analysis of the deliberations and actions of court and counsel throughout the twenty-month-long disengagement activity, see Marcy Murningham, "Court Disengagement in the Boston Public Schools: Toward a Theory of Restorative Law" (Cambridge, Mass.: unpublished Analytic Paper for Harvard Graduate School of Education, 1983).
20. *Morgan v. Nucci*, "Memorandum, Draft Final Judgment and Notice of Hearing" (5 July 1985).
21. *Ibid.* at 2.
22. Interview, 5 November 1983.
23. For a discussion of the benefits of centralizing the housing and development functions, see "Boston's Development and Housing Functions: A Reorganization Proposal" (Boston: Citizens Housing and Planning Association, November 1983); Joseph S. Slavet, "Housing Issues in Boston: Guidelines for Options and Strategies" (Boston: McCormack Institute, University of Massachusetts at Boston, December 1983); Phillip Clay, "Issues Facing Boston: 1984" (Boston: McCormack Institute, University of Massachusetts at Boston, December 1983); Rolf Goetz, "Boston's Housing in 1984: Issues and Opportunities" (Boston: McCormack Institute, University of Massachusetts at Boston, December 1983).

24. For an analysis of these constraints, see Robert C. Wood, "Professionals at Bay: Managing Boston's Public Schools," *Journal of Policy Analysis and Management* 4 (1982): 454; Marcy Murningham, "Behind the Numbers: Conditions of Schooling in Boston" (Boston: Boston Municipal Research Bureau, 1981).
25. Chapter 333 of the Acts and Resolves of the Commonwealth, 1978.
26. "Address by the Honorable William Wayne Justice" at the Senior Executive Program at the John F. Kennedy School of Government, Harvard University, 8 August 1980.
27. See Charles A. Johnson and Bradley C. Canon, *Judicial Policies: Implementation and Impact* (Washington, D.C.: Congressional Quarterly Press, 1984).

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Anne Whiston Spirn, *The Granite Garden*. New York: Basic Books, 1984. 275 pp.

Jane Jacobs, *Cities and the Wealth of Nations*. New York: Random House, 1984. 232 pp.

George Gallup, Jr., *Forecast 2000*. New York: William Morrow & Company, 1984. 157 pp.

Gary Gappert and Richard V. Knight, eds., *Cities in the 21st Century*. Beverly Hills, Calif.: Sage Publications, 1982. 348 pp.

WHAT ALL OF THE ABOVE BOOKS have in common is the futuristic glimpse they give us into urban life in the twenty-first century. In approaching such a milestone, one can be either an optimist or a pessimist. These authors present a balanced mixture; they bring tidings of good news *and* bad news. As one of them aptly puts it: "In the present lies not only the nightmare of what the city will become if current trends continue, but also the dream of what the city could be." With this thought in mind, it behooves us to examine both the dream and the nightmare. It is the purpose of this essay to review these books for their substantive message and at least suggestively to evaluate their importance for tomorrow's world.

Cities are both the product and the producers of technology, and therein lies a key to comprehending the city of the future. Throughout history the city has provided the most basic necessities of life: food, shelter, water, energy, and safe waste disposal. But the modern city is also a center for art, beauty, and learning—a carrier of culture in literature, music, and philosophy. And for all its anonymity and alienation, the city can be a place of fascinating variety and excitement.

On the assumption that a look backward will illuminate the way ahead, it is good to remind oneself of how the city evolved from its origins down to the present century. Archeologists indicate that the transition from the primitive village to the city first took place about 5,500 years ago, when, through the increased specialization of functions made possible by technology, people no longer had to spend all of their time gathering food and protecting themselves physically. As Lewis Mumford points out in his monumental book *The City in History*, "Grain cultivation, the plow, the potter's wheel, the sailboat, the draw loom, copper metallurgy, abstract mathematics, exact astronomical observation, the calendar, writing and other modes of intelligible discourse in permanent form, all came

into existence at roughly the same time, around 3000 B.C. give or take a few centuries.” With these accomplishments the city became possible, and in six scattered regions of the world, urban settlements had their beginnings—first in Mesopotamia, Egypt, and the Indus Valley, later in Mediterranean Europe and China, and still later in Central America.

Through the ages the city remained essentially the same, until the late nineteenth century, when it changed drastically. At that time it became possible to create cities whose inhabitants numbered in excess of one million, whereas before then, few if any cities could boast of a population that size. On the basis of new technology, mainly in transportation, cities were able to transcend the limitations of area that had previously constrained them. Where once industry and commerce had had to draw their labor force from within walking distance of their factories and office buildings, the city now spread farther and farther away from its core center, and its population grew to greater densities. Suburbs appeared on the metropolitan fringes, and the same pattern of urban development recurred again and again. What the commuter railroads started, Henry Ford completed, for with the first mass production of the automobile, the radial growth rings set by rail transportation were obliterated and the metropolis exploded in all directions.

By the middle of the twentieth century, the upper and middle classes in America began to flee the central cities in large numbers. The “white flight” to suburbia was hastened by the passage of the Federal Aid Highway Act of 1956, which provided a convenient escape route for the affluent. Thus, in the words of former mayor Richardson Dilworth of Philadelphia, we in effect threw a “white noose” around the necks of the cities. Moreover, we are now artificially segregating cities not only racially but by class as well. In many ways, the city has become the refuge for millions of “marginal” citizens, both black and white, who live on the fringe of the economic system and cannot escape. Although the gentrification movement that commenced in the decade of the 1970s supplies a new dimension, it is too soon to tell whether the return of middle- and upper-class professionals to the central city will significantly reverse the earlier trend.

If cities evolved from a technological base, so also have they prospered. It is no exaggeration to say that they may also cease to exist because of technology, which now raises the specter of their cataclysmic self-annihilation. Without stopping to brood over the gloomy possibility of a nuclear catastrophe like the one that nearly occurred at Three Mile Island in 1979, it is reasonable to construe the signs of contemporary urban industrialism as self-destructive in less dramatic ways. As a society, we proceed with reckless abandon to squander incredible amounts of resources and to create intolerable levels of pollution, thereby engendering the capacity to produce a fatal imbalance in the ecology. By far the most ominous threat is the “silent spring” that followed from the indiscriminate use of pesticides, chemical fertilizers, and herbicides; the careless disposal of refuse in landfills; and the clandestine dumping of poisonous toxic wastes. These heedless practices contaminate and diminish groundwater supplies, and they also seriously endanger public health. The perfect illustration of this was the Love Canal incident in New York. Municipalities, hard-pressed to provide adequate services within their shrinking budgets, balk at investing in new, improved waste treatment. In short, we take the cheapest way, and let the other fellow pay—the other fellow, in this case, being the citizen’s health.

New England's air becomes acidic from the industrial smokestacks of Midwestern cities. Acid rain formed from coal burned hundreds of miles away is killing fish and plant vegetation in rural lakes and forests. As a result of such pollution, we are in danger from the air we breathe and the water we drink. Not only that—we live in cities that border on bankruptcy or continually depend on deficit financing; where taxes are so high that a rate increase actually reduces revenue because of property abandonment; where schools fail to educate and instead become the scenes of strikes and riots; where parks and playgrounds are neglected and vandalized; where whites race for suburbia at the appearance of a black family on the block; and where crime, drugs, official corruption, and generations of poverty are endemic. Add to this horror show the unreliability of public transportation and the electrical power failures that often leave city dwellers either stranded in elevators or having to cope with a night of complete darkness. Urban nightmare? If this doesn't qualify, then I don't know what does. Some urban specialists believe that we are running the risk of making the city an uninhabitable domain by one means or another. At the moment, the odds on getting there appear very favorable.

Like the late Rachel Carson, Anne Whiston Spirn sees and understands most clearly the implications and destructive consequences of these ecological dangers. Her naturalistic conception of the city as a fragile urban ecosystem was influenced by her earlier career in art history. Before becoming a landscape architect and environmental planner, she studied the work of Frederick Law Olmsted, the famous nineteenth-century landscape architect who designed a series of magnificent parks and parkways that took advantage of nature to alleviate the city's social and environmental problems. He was largely responsible for creating Boston's Emerald Necklace park system, which ranks as a masterpiece in park planning. In so doing, Olmsted helped transform the American city in the post-Civil War era. Following in his footsteps, Anne Whiston Spirn has adopted his ideas and methods and has applied them to the modern city in a most salutary way. Much to her credit, she has greatly expanded and refined them in her own vision, but the principles remain essentially the same.

In *The Granite Garden*, Spirn recognizes the unique planning opportunity that is available for restoring older cities whose infrastructures are in desperate need of replacement, and for guiding newer cities that are still in the process of construction. If these cities are to be healthful, vibrant, and aesthetically delightful places in which to live, she argues, they must be designed in concert with nature so as to maximize its positive forces and minimize its negative ones. Such considerations as air flow, topography, water dynamics, and plant and animal life should be taken into account. All of them combine to play interdependent roles in her formula for shaping a safer and more beneficial urban habitat. City dwellers, in her view, are dependent upon the natural environment to support them just as much as rural and suburban residents are. When the potency of these cycles is ignored or subverted, cities court ecological disaster. Still, her message is one of hope and not of despair.

Drawing on many academic disciplines in her study of urbanization, Spirn has sought the fullest range of conditioning forces as the basis of her analysis. She omits nothing: climatology, geology, hydrology, soil conservation, aesthetics, civil engineering, botany, zoology, culture, politics, architecture, and history—all

factors that contribute to making the city what it is are considered. Only by analyzing detailed information on all these various aspects of urban life can the city be realistically understood in its totality. She also reveals the essential interrelationships among cities, the suburbs, and the rural countryside.

Ancient cities in Greece and Rome, much like modern ones, had trouble with the disposing of wastes and bad air created by dense populations, but the ancient Greeks and Romans neither realized the ultimate dangers involved nor had the technology to cure the problems. We have long known the risks inherent in these situations, and today we do have the technology to remedy them. This is precisely the crux of Spirn's argument. She makes a convincing case that "the barrier to building a better city is not lack of knowledge, but refusal to apply that knowledge." It is a difficult assertion to refute, in view of the comprehensive data and evidence that she has collected to substantiate her position. The real villains are greed, indifference, and a multiplicity of powerful special interests.

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A practitioner as well as scholar, Spirn believes it is not enough to observe, analyze, and theorize about the urban process from the sideline; putting thought into action is equally important, to which end she has defined a broad range of urban design problems and prospective solutions. For example: To detain storm water and prevent sewerage system overloads, she recommends the strategic placement of parkland. To make downtown open space more aesthetically pleasing, she advises using public space as the framework for private development. To reclaim abused vacant land where soil is depleted, she urges the use of composted sewage sludge to make new topsoil. She believes that cities should learn from their past mistakes. She cites the construction of tall buildings like the Prudential Center and the Hancock Tower in downtown Boston as having exacerbated the city's wind problem and created hazardous conditions on some street corners. The wind problem was also worsened by the plaza at Government Center, so much so that Boston now rivals Chicago, says Spirn, for the title Windy City.

Surely no one denies the value of Spirn's notion that the city and its region should be managed as an integrated system. But I doubt that such a goal is in the political cards. In the first place, there is no general citizenry of the metropolis; there are citizens of hundreds of local governments within the metropolitan areas, but a commonwealth of the metropolis just does not exist. The region is too sprawling, too diverse in its interests and characteristics to be considered a common entity. To be sure, there are innumerable problems that are shared by the entire area, but they arouse too many parochial interests to permit a unified governing system.

In this sense, Spirn's logical analysis ignores political reality and human fallibility. The metropolis has reached the point at which decisions are made more in response to the crisis of the moment than according to any general doctrine of urban development or any well-conceived master plan. The totality of communal concerns cannot be brought to bear on decision making for the simple reason that the complexity of forces involved has become so preponderant that no individual can correctly conceive of what the metropolitan entity is, much less acquire the authority to make the kinds of integrated and encompassing decisions that would be necessary. Put plainly, it is my contention that the large metropolitan area is too politically fragmented to be a rationally governable entity, at least if any semblance of democratic government is to be maintained.

Spirn strikes me as being a little naive politically in another respect. She assumes that the objective of politicians is to promote the well-being of the community. This is not always the case, especially in a state like Massachusetts, where petty politics and irrational behavior prevail more often than might normally be expected.

Despite these criticisms, I think that Spirn has definitely made a significant contribution. Casting a wide net professionally, she has broken new ground that is both breathtaking in scope and extraordinary in vision. Her book is a first-rate scholarly production, well conceived and well written. It is a landmark in urban design analysis and is particularly important for Boston, since it contemplates the next several decades of the city's growth. Some say that Spirn's pioneering work has already launched a new field of urban ecology. Be that as it may, she has an excellent sense of the public interest, an integrity, and a commitment that allows her to be sophisticated without being cynical. And that is what makes her approach and style so refreshing.

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In 1961, Jane Jacobs argued in her book on the American city that neighborhood councils were imperative to allow local people some say about what was to be done to their neighborhoods—particularly in the areas of planning and physical development. She remains a staunch urban advocate in her latest book, *Cities and the Wealth of Nations*, but this time from an international perspective. Indeed, this book is essentially a study in comparative international politics and urban economics in which Jacobs challenges some of the myths and shibboleths of yesterday concerning the rise and decline of nations. She has developed some interesting new theories and has worked from them toward a more relevant and applicable body of research.

According to Jacobs, it is not so much what national governments do by way of proposing policy that determines the ebb and flow of their economic well-being; rather, the thing that counts is the economic productivity of their cities. Or, to rephrase it slightly, as its cities fare with economic production, so fares the nation, and when the cities and the nation fare well, everyone is said to benefit. This is the old trickle-down thesis. No one claims that the benefits are equitably distributed, of course, and little is made of the fact that one-half of one percent of our nation's population controls a quarter of our nation's wealth. In 1982, the richest 20 percent of Americans received more income than all those combined in the bottom 70 percent. As she did in her earlier book, *The Life and Death of American Cities*, Jacobs stresses that there are cycles of centralization and decentralization that regularly succeed each other, and that only through extensive decentralization can local democracy be realized.

But the complexities of decentralization and democracy, I am afraid, cannot be reduced to an either/or proposition. Neither of them is that simple. If the national government were no longer to provide local governments with the financial resources which enable them to deal with problems that are essentially national in character, the effect would be to prevent the cities and states from responding to what their citizens may want and need, thus blocking the expression of local democracy. It is difficult to see how local democracy could have much meaning if the capacity of local governments to act were precluded by a national policy of fiscal starvation. There are also serious problems of equity involved because of

the vast disparities in wealth among the states and localities. When federal financing is curtailed, as we have seen in the Reagan Administration, many vital programs on which people depend are terminated.

In a society of the size and complexity of modern America, and in a world of impersonal rules established to control behavior in a huge, technologically complicated, urbanized community, pressure will continue to be exerted to move some controls downward, toward the very local area. Since this kind of pressure is being felt around the world—Japan, Great Britain, Czechoslovakia, Poland, Italy, France, and Yugoslavia are countries where the process of decentralization has recently been instituted or whose citizens have vociferously demanded that it be—we may deduce that in the future, there will be much need for fruitful analysis of the decentralization problem. The point is that we cannot afford not to develop more effective ways for center-city residents to get involved in making the critical decisions that affect their lives so deeply.

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My chief criticism of Jacob's most recent book is that her discussion fails to recognize the enormous power and control that are vested in American corporations, whose managers may use that power over capital in ways that are good for their corporations but harmful for the society as a whole. Moreover, corporations occupy a more dominating position here than in other countries, since such a small proportion of American business is nationalized. Corporations have used government in the past to minimize their losses and reduce their risks while keeping other aspects of the system under their control. Note, for instance, the steps that were taken by the government to bail out the Chrysler Corporation. It was a case of government saving capitalism from itself.

There are also problems with booming economic production that go beyond the inequality of its distribution. One of them is the persistent and permanent problem of *externalities*. The term refers to the spillover effects of economic activity. Costs of negative externalities can often be avoided by corporations. The American coal industry is one of the best examples of the externality issue. Mining in the United States has a disastrous safety record. Over the years, some 120,000 miners have been killed and countless others maimed and otherwise seriously injured. The dangers are on all sides, from roof cave-ins, underground explosions, electrocution, and the operation of dangerous machinery in confined spaces and in dusty areas where visibility is limited and black lung disease is prevalent. Other examples of negative externality are the asbestos industry, auto exhaust emissions, nuclear energy, and the massive quantities of dangerously toxic substances that are being dumped with little or no concern for the consequences. This is corporate evasion of responsibility at its worst. And the problems remain long after the corporation is gone. So-called solutions are extremely expensive, as in the nuclear reactor industry. (All of this was graphically documented in the recent ABC television program entitled "The Fire Unleashed.")

If we sought to give power to the people in central cities and devised governmental structures to enhance their role and influence, the probable consequences would be minimal, as long as corporate power over the economic and social conditions of people continued unabated. Underneath all the political rhetoric about government facilitating economic growth, reducing unemployment, and bringing new jobs to constituencies, the truth is that elected officials in cities and states have little opportunity to alter the forces that determine the well-being of their

districts. Those who create and eliminate jobs often command government from the outside; they are not, for the most part, within government. When cities and states like Massachusetts got into fiscal trouble in the seventies, it was bankers, heads of corporations, and corporate lawyers who were authorized to put their finances back in order. Ironically enough, the poor were usually made to pay for the restoration of solvency. If we are serious about enhancing the power of the people, a way will have to be found to overcome the force of corporate power that determines what opportunities shall be made available to the city's poor population, and who shall be left out on the fringe.

George Gallup, Jr., is the son and namesake of the well-known public opinion pollster. He succeeded his father as president of their worldwide polling organization. In *Forecast 2000*, he has written a provocative book in which he attempts to predict the future. His predictions are based primarily on an extensive set of surveys and interviews that were conducted by the Gallup Poll firm with some 1,346 national opinion leaders in America. The identities and occupations of these leaders are never revealed, but a sampling of the poll results can be found in the appendix to his book, which is useful for understanding the methodology of his research.

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Among the threats to the viability of democratic society that seem to abound in our age, Gallup raises some issues of prime importance, such as overpopulation, the threats of terrorism and nuclear war, the economic pressures of inflation and unemployment, the double-edged sword of technological progress, the environmental crisis, the narcotics traffic and drug abuse, the increase in crime and violence, the decline of religion and morality, and the faltering role of family life. In his predictions of what the future holds, he is both an optimist and a pessimist. First his bad news: he sees a bleak picture of social and economic problems staring us in the face in the twenty-first century, and "If swift, forceful steps aren't taken to defuse the political and social time bombs facing us, we may find ourselves on a track that could lead us to the destruction of civilization as we know it." And now his scrap of good news: "We mustn't be paralyzed by the dangers that threaten the future. If we recognize them and act appropriately, we still have time to step in and change the direction of events toward a better and happier outcome."

Yet nowhere does Gallup offer a sensible plan for intervention, nor does he suggest alternatives to present policies. Instead, he believes that Americans will be able to cope with the so-called nine Future Forces through their traditional moral and spiritual values and through their spirit of individualism and freedom. In searching for answers, Gallup argues that our continued commitment to education, religion, and volunteerism will provide them. In brief, he has prescribed a curious mixture of bromides, palliatives, and glib generalities. For example, in his prognosis for American politics, he claims that the forces of frustration, apathy, and activism will somehow mysteriously combine, enabling us to band together and work for positive social change. I contend this is a fallacious conclusion not only because it presents an untenable conception of the political process but also because it derives from faulty reasoning. Let me briefly illustrate.

For anyone wishing to effectuate a policy, the dispersal of power to the bureaucracy is highly significant because it often serves the ends of those who can

benefit the most from the inactivity of the state. For the pollutor to get away with his antisocial conduct, it may only be necessary to resort to obfuscation and legal delay or literally to depend on the bureaucrats to do nothing in order to have his way. In truth, the dispersal of power to the housing bureaucracy, urban renewal authorities, the police department, and welfare agencies has done much to bring to climax the current conditions of the large city. Furthermore, such dispersal is a major contributor to our incapacity to do anything about some of the most chronic problems in our society, such as racial discrimination, poverty, and the imbalance of the criminal justice system.

As a futurist, Gallup cannot compete in the same league with the likes of Herman Kahn, Alvin Toffler, and John Naisbitt. His book suffers from simplistic assumptions about political causation, the pervasiveness of institutional arrangements, and how social systems behave and interact. If he were not so intent on summarizing the statistical data from his polls, he might be able to perceive better some of the ways in which the blows of "future shock" could be cushioned. By oversimplifying and evading the complexities of reality, Gallup has rendered much of his effort meaningless. At best, *Forecast 2000* gives us a fairly good indication of the trends, attitudes, and expectations of American public opinion, and of the direction in which the society is headed—but not much more.

Cities in the 21st Century, edited by Gary Gappert and Richard V. Knight, is an interesting collection of essays dealing with the anticipated renaissance of American cities. Its twenty-four contributing authors are a mixed group of economists, sociologists, and urbanologists who have a relatively bright outlook on the subject: they do not belong to the gang of gloom and doom. Space does not permit a review of each of the book's nineteen articles, and it probably makes more sense to highlight randomly their major ideas and contributions.

Optimism is warranted for some cities, according to Arthur Shostak, because of forces that will influence urban development during the next twenty-five years, such as:

- the emergence of a new urban leadership that views the tasks of government as technological, managerial, and highly manageable;
- an increase in energy and fuel costs that discourages living in suburbia and driving to city jobs;
- the continued slowdown in any significant migration of underprivileged blacks and whites off the land and into northern cities;
- the steady acculturation of all previous newcomers to the cities, as exemplified by the stabilization of public-school test scores and the reduction in family size of low-income urbanites;
- the steady improvement in America's race relations, as demonstrated by Gallup Poll data and by the recent absence of violent racial confrontations;
- the seeming gains in teenage maturity, as evidenced by the sharp decrease in teen gang killings and by the ability of thousands to coexist peacefully at major entertainment events; and

the persistence of ethnic and racial pride in neighborhood ambience and well-being, as exemplified by the large and growing number of block associations, neighborhood organizations, and so forth.

With these prospects in mind, Shostak presents various scenarios of urban change that are likely to emerge in the years ahead. Conflict City represents the current status quo for many cities, especially those of the Midwest and Northeast. Wired City is the logical extension of the high-tech industry, while Neighborhood City is the expression of the new urban ingenuity represented by the "urban homesteading" movement. International City is a scenario already manifest where the headquarters of multinational corporations reside, and it reflects a new business urbanity. Regional City, in turn, is less common, its rarity explained by its role as the expression of new patterns of political power sharing and cultural-leisure interaction. And Leisure City represents a precursor of a new form of recreation engendered by the time released from work routines through new technologies, by new forms of work organization, and by the prolongation of longevity among the elderly.

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Some demographic realities of the Sun Belt states are discussed by Kathleen Butler and Ben Chinitz, while Warner Bloomberg and Rodrigo Martinez-Sandoval focus on the implications of Hispanic urban newcomers in the border regions of the Southwest. Harold Rose presents a historical analysis of the emergence of large black ghettos and comments on their future. These population impulses will provide for both substantial continuity and considerable change.

Jon Van Til examines the forces of urban transformation and discusses the problems of an energy-short city; Joseph F. Coates analyzes the impact of technology; and Larry Hirschhorn reports on changing arrangements in industrial organizations in the year 2001. In a similar vein, Susan Saegert reviews issues associated with gender identity and speculates about an "androgynous city" in the future. These authors indicate that cities will become even more complex in the next century.

With regard to urban public services and finances, James Alm and Jesse Burkhead conclude that for most cities a fiscal safety net is not yet in place and that the prospects for such look dismal. Deborah Bickford and Charles Vehorn consider the ways in which cities are likely to respond to cutbacks and shortfalls. They identify four likely consequences of reductions in public services—innovations, lowered expectations, increased disparities, and new private-public partnerships. In the final chapter, the editors suggest the need for a new philosophy of urban development, for new urban managerial skills, and for a complex "urban futures" management model.

Admittedly, the preceding has given a broad overview of *Cities in the 21st Century* and is intended to be only suggestive of its content. Its authors collectively have made a superb contribution. In an increasingly urbanized society, their interpretations and models of the future city can become the basis for both serious thinking and advance planning. In short, they have performed the futurism act admirably. To the extent that their paradigms stand for different understandings of what the urban system may hold in store for us, they serve a valuable heuristic purpose.

I turn now to my final point of discussion, which is achieving the livable city. Only if we can fashion more sensitive values and create, in effect, a moral comprehension of the conditions we are in, only then is there a chance of providing technological answers to the ecological overload we are placing on the urban ecosystem. Whether any such solution is feasible, one can only guess. Perhaps the contemporary city, as Lewis Mumford suspects, has become a necropolis, and doom lies ahead. If perchance Necropolis has not already been created, then there is still hope. But the human stakes are high. To quote Anne Whiston Spirn: "Somewhere a visionary may persuade his or her city to take on the challenge of managing the entire urban natural environment. The reasons are compelling. At issue is not just the creation of a more secure, more beautiful, more efficient and cost-effective city, but survival itself." It remains to be seen whether all the king's horses and all the king's men can restore the city to its full flower.



